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Costello

ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND
RELATED MATTERS.

X Forster
Hunt

Hearing held
8th floor
180 Dundas Street West
Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange

Commissioner

P.S.A. Lamek, Q.C.

Counsel

E.A. Cronk

Associate Counsel

Thomas Millar

Administrator

Perovich

Transcript of evidence
for
February 1, 1984

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DEATHS AT THE HOSPITAL FOR SICK CHILDREN
AND RELATED MATTERS.

Hearing held on the 8th Floor,
180 Dundas Street West, Toronto,
Ontario, on Wednesday, the 1st
day of February, 1984.

- - - - -

THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner
THOMAS MILLAR - Administrator
MURRAY R. ELLIOT - Registrar

- - - - -

APPEARANCES:

P.S.A. LAMEK, Q.C.)	Commission Counsel
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D. HUNT)	Counsel for the Attorney
L. CECCHETTO)	General and Solicitor General
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	and Coroner's Office)
I.J. ROLAND)	Counsel for The Hospital
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B. PERCIVAL, Q.C.)	Counsel for The Metropolitan
D. YOUNG)	Toronto Police
W.N. ORTVED	Counsel for numerous Doctors
	at The Hospital for Sick
	Children
B. SYMES	Counsel for the Registered
	Nurses' Association of Ontario
	and 35 Registered Nurses at
	The Hospital for Sick Children



APPEARANCES: (Continued)

D. BROWN	Counsel for Susan Nelles - Nurse
E. FORSTER	Counsel for Phyllis Trayner - Nurse
J.A. OLAH	Counsel for Janet Brownless - R.N.A.
B. JACKMAN	Counsel for Mrs. M. Christie - R.N.A.
S. LABOW	Counsel for Mr. & Mrs. Gosselin, Mr. & Mrs. Gionas, Mr. & Mrs. Inwood, Mr. & Mrs. Turner, Mr. & Mrs. Lutes, and Mr. & Mrs. Murphy (parents of deceased children)
F.J. SHANAHAN	Counsel for Mr. & Mrs. Dominic Lombardo (parents of deceased child Stephanie Lombardo); and Heather Dawson (mother of deceased child Amber Dawson)
W.W. TOBIAS	Counsel for Mr. & Mrs. Hines (parents of deceased child Jordan Hines)
J. SHINEHOFT	Counsel for Lorie Pacsai and Kevin Garnet (parents of deceased child Kevin Pacsai)



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/BN/ak

--- Upon commencing at 10:00 a.m.

MARY COSTELLO, Resumed

THE COMMISSIONER: Yes, Ms. Forster.

MS. FORSTER: Thank you.

CROSS-EXAMINATION BY MS. FORSTER:

Q. Good morning, Ms. Costello.

My name is Elizabeth Forster and I act on behalf of Phyllis Trayner.

Ms. Costello, you told us that prior to the end of March 1981, digoxin was kept on the shelves in the medication room; is that correct?

A. Yes, it was.

Q. Was that true for all forms of digoxin available on the ward, the pills, the exilir and the ampules?

A. Yes, it was.

Q. Was digoxin also kept on the crash carts on Wards 4A and 4B?

A. No, it was not.

Q. You indicated that the drugs that were kept on the shelves were kept in alphabetical order; is that correct?

A. The stock drugs on the open shelving were, yes.

Q. Were all forms of digoxin kept



1
2 together on that shelf?

3 A. Yes, I think so.

4 Q. Do you remember what drugs were on
5 either side of the digoxin on the shelves?

6 A. Not specifically, no.

7 Q. Do you recall whether
8 furosemide was also kept on the shelves?

9 A. Yes, it was.

10 Q. And propranolol?

11 A. Propranolol tablets were
12 prescription, so they may have been kept in a
13 cupboard beside the shelf, and propranolol exilir
14 required refrigeration so it would have been kept in
the medication fridge.

15 Q. What about epinephrine?

16 A. Yes, I think it was kept on
17 those shelves.

18 Q. On the shelves. And heparin?

19 A. I think that heparin was in
20 a refrigerated ampule -- vial, sorry.

21 Q. But it was kept in the
22 refrigerator?

23 A. Yes.

24 Q. And Lasix, do you recall where
25 that was kept?



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A. I think Lasix is another name for furosemide and I think it was kept on the shelves, but exilir was kept in the refrigerator.

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7

Q. Now, dealing with the administration of digoxin, did each registered nurse prepare the digoxin required for her own patients?

8

A. Yes.

9

10

Q. And as you told us before, the calculation of the dosage and the amount of the digoxin was checked by another registered nurse?

11

A. Yes.

12

13

14

Q. You mentioned yesterday that registered nurses would also prepare digoxin for the registered nursing assistants?

15

16

17

A. I think that I said I think it would be very exceptional the registered nursing assistant would ever give digoxin. I am not aware of any occasion when this occurred.

18

19

Q. What about constant care nurses, who would prepare their digoxin?

20

A. They would themselves.

21

22

Q. And pending registered nurses, who would prepare their digoxin?

23

A. They would themselves.

24

Q. What about student nurses?

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A. They would prepare it with supervision from their instructor or from one of the staff RNs.

Q. In addition to the supervision they would receive, would another RN still be required to double check?

A. It could be the instructor, once we were confident that the instructor was well oriented to the routines on our ward.

Q. So then the student nurse would prepare it and it would be overseen by the instructor, but there would be no other check in addition; is that correct?

A. No.

Q. Yes, it is correct or no, I am ---

A. No, there would not be another check.

Q. How was it determined who would prepare the digoxin for the RNAs?

A. The RNAs did not give digoxin so it was assigned who would do the treatments and give the medications for the RNAs. That could be the team leader or a specified RN.

Q. Who would do the assigning?



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A. Often I would or the team leader.

Q. Would you make this notation in the assignment book?

A. Yes.

Q. Was the same procedure followed for other medications that were given to patients other than the double check, by that I mean that each nurse would prepare her own medications?

A. Yes, that is a principle and a rule.

Q. Would an RN always prepare the medications for the RNAs?

A. You are confusing me by saying prepare it for the RNAs. The RNAs did not give it, but the RN would prepare it and give it to the patients who were assigned to an RNA.

Q. The RNAs would prepare the medication?

A. No, the RN would prepare the medication and would administer the medication to the patients who were assigned for their basic care to an RNA.

Q. Now, you have told me that applies to digoxin. Did that also apply to other



1
2
3 medications?

4 A. All medication.

5 Q. As a rule, when were the
6 medications prepared? Were they prepared as needed
7 or at the beginning of a shift?

8 A. As needed.

9 Q. Was that the same during the
10 night shift, as far as you know?

11 A. Yes.

12 Q. What would happen, then, in
13 the case of a constant care nurse who needed to
14 administer medication?

15 A. Someone would supervise her
16 baby while she -- watch her baby while she came out
17 to prepare the medication.

18 Q. Now, you mentioned that with
19 respect to digoxin, student nurses might calculate
20 the dose but only under supervision.

21 A. Yes.

22 Q. Now, do you have the communica-
23 tion book in front of you, Ms. Costello?

24 A. Does it have a number?

25 Q. It is Exhibit 300, the large
bound book.

A. Yes.



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Q. If you could turn to the second
tab, the 4B communications book, page 64.

4

A. Yes.

5

6

Q. And this is a reference for
November 18, and there is a reference to on three
occasions a relief nurse and on one occasion a
student gave digoxin at 0900.

8

A. Yes.

9

10

Q. Were you familiar with the
error made by the student in that case?

11

A. Yes.

12

13

Q. Was that an error made while
she was under the supervision of another nurse?

14

A. Yes.

15

16

17

Q. I take it, then, that there
were errors made by two people, both the student
in administering the digoxin at the incorrect time
and the supervisor in permitting her to do so?

18

A. Yes.

19

20

21

Q. Was it a common occurrence
on Wards 4A and B to have student nurses on the
floor?

22

A. It was not constant but it was
normal that they came for periods of time.

23

24

25

Q. These would be students both



1
2 from nursing courses at community college and at
3 university?

4 A. For one period we had some
5 students from Ryerson, but generally they were from
6 the University of Toronto.

7 Q. Did these students carry their
8 own patient load?

9 A. Within the assignment of a
10 staff member's, mainly because they were only there
11 for a few hours so the patients would be assigned
12 to a staff member but cared for by the student for
the few hours that she was there.

13 Q. You also mentioned that a
14 pharmacist started working on Wards 4A and B in
15 September of 1980?

16 A. Yes.

17 Q. And I believe you stated that
18 when she was hired she re-organized the medication
cupboards?

19 A. Yes.

20 Q. Do you recall how long after
21 she commenced her employment that she did that?

22 A. Fairly soon.

23 Q. Was the location of digoxin
24 changed as a result of the re-organization?
25



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A. No.

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Q. You also indicated yesterday that you were the one that hired Phyllis Trayner and you also were the one that chose her as a team leader?

6

A. Yes.

7

8

Q. I take it that in choosing her you had confidence in her ability?

9

A. Yes, I did.

10

Q. And you regarded her as a competent nurse?

11

A. Yes, I did.

12

13

Q. And did you continue to have confidence in her ability when she served as a team leader on Ward 4A?

14

A. Yes, I did.

15

16

Q. Did you still regard her as a conscientious nurse?

17

A. Very much so.

18

19

20

Q. You mentioned yesterday that she often looked for reassurance from some of the doctors on the ward; is that correct?

21

A. Yes.

22

23

Q. Was Phyllis Trayner the kind of person who, as a rule, would call for help if ever she was in doubt as to a patient's condition?

24

25



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A. Very much so.

3

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Q. Now, can you turn to your
notes, Ms. Costello, that were marked Exhibit 309?

5

A. Yes.

6

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Q. In the middle of page 2 you have
written:

8

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"Some inter-personal problems, seems
people were concerned about Phyllis'
behaviour. She got lots of attention
as team leader of this team."

11

Can you tell me what you meant by that?

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Q. When you say Phyllis was asking for lots of attention, what kind of attention?

A. Asking for reassurance, asking for, did we do everything right. She was the most vocal in that and she was quite vocal and probably the most vocal in asking for support for her own stress.

Q. All right. And then on page 3, near the top of the page, near the top of page 3 you say:

"Bertha expressed concern and stress re working on team parallel to Phyllis with Phyllis' behaviour re arrests and her expectations of everyone at this time."

First of all, is this something Bertha expressed to you?

A. Yes, it is.

Q. And what was her concern?

A. She felt dominated and inferior because of Phyllis' dominant role in an arrest situation where Phyllis took over. Phyllis tried to manage all aspects of the arrest, even to consoling parents afterwards and Bertha felt as team leader on 4B that she would have liked to have had a stronger



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B 2

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role for herself, especially with her own 4B babies.

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Q. Now, next I would like to turn to Exhibit 330, which was your staffing budget. Do you have a copy of that?

6

A. No.

7

8

9

Q. You indicated yesterday that with respect to the staff allotted for 4A/4B, this is a list of what you were given, not what you requested?

10

11

A. Yes, it is, it wasn't the first request.

12

13

Q. Do you recall what you requested by way of staffing for those two wards?

14

15

A. I don't have those notes with me but we requested considerably more numbers. We definitely did not request to give up an RN.

16

17

Q. Did you request more RN's?

18

19

A. Yes.

Q. More than the 27 you had before?

A. More RN's and more RNA's.

20

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Q. And when you put in your request for staff was your request based on the optimum number of nurses you thought were needed on the ward, or did you have in mind certain budget financial constraints?



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A. Yes, I did, I tried to do it on the maximum, in fact the maximum assignment that I felt safe with for a nurse to have on the different shifts and calculated that daily and weekly and figured it out that way.

Q. All right. Do you recall how the staff was divided up between 4A and 4B, how many RN's on either ward?

A. I think it was even. I think that it ended up that 4A had one more RNA which, if there was one extra person, we put it where there were more younger patients.

Q. I take it as a general rule that infants require more nursing care than older children, do they?

A. Yes, they do.

Q. And Exhibit 331 is a list of what you call 4B Vacancies by Week. Do you have that?

A. No.

Q. Is this, Ms. Costello, a list of only the vacancies on 4B or does it apply to 4A and B?

A. This is only 4B.

Q. And I take it you are not able to help us on the number of vacancies in 4A then?



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A. Mrs. Radojewski has the figures
for that.

3

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Q. Okay, fine. And finally Exhibit
332, on the first page of that dealing with Ward 4B
you have a heading "New Positions - Budget Approval -
June 3rd, 1981".

5

6

7

A. Yes.

8

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Q. Was that approval for positions
over and above those on the staffing budget?

10

A. Yes, it was.

11

12

Q. And by my count there was 12
new positions created on Ward 4B as of June 3rd?

13

14

15

16

A. Oh, no, four. I am sorry, down
where I have come to the line with Kushmelyn being
hired and Pressnail resigning, that is back to the
replacement situation. There were four positions
approved.

17

18

Q. And those would be Coghlin,
Drewry, Kingdon and Teare?

19

A. Yes.

20

Q. All right.

21

Q. And were those all RN positions
that were created?

22

23

A. They were RN positions. You
can see that we were not able to obtain all RN's and

24

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some of these were pending RN's who were hired.

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Q. All right. And if we turn to the second page dealing with Ward 4A.

5

A. Yes.

6

Q. There were seven new positions created?

7

8

9

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A. No, there were four. I could read it more easily if it were typed the way the other one was but I know there were four and that Deverno must have replaced someone who left.

11

12

Q. So, the first four names represent new positions that were created on 4A?

13

A. Yes.

14

Q. The last three are simply replacements?

15

A. Yes.

16

17

18

Q. All right. And again were the four positions that were created all positions for Registered Nurses?

19

20

A. Yes. Again, they were not filled by Registered Nurses.

21

22

Q. Can you tell me why so many new positions were created in June, 1981?

23

24

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A. It was a decision by Administration. Maybe a request had gotten through



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to them that we really needed more staff at that time.

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Q. And when you say our requests, were those requests you had made of the Administration for more nurses?

5

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A. Yes, and as you have suggested with this other sheet, I had made it a long time before but at that time - well, I shouldn't say that they will - I think they heard our requests all the way along but at this time they made the decision to spend the money to increase our staff.

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Q. And finally, Ms. Costello, you were asked, I think it was the day before yesterday, whether you had any prior experience with a rash of deaths occurring on any ward and I believe you said that prior to coming to the Hospital for Sick Children you had had experience in which one particular nurse would be present for a series of deaths on the night shift, is that correct?

19

20

21

A. Yes.
Q. How many times do you recall that happening?

22

23

24

25

A. It is so far in the past I can't be specific but it is not unusual.

Q. And you made specific reference



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to this occurring to people on the night shift. Was
that something you also recall happening?

3

4

A. Yes.

5

6

Q. Are you able to give me any
specifics?

7

THE COMMISSIONER: Excuse me. You
say it is not unusual. On how many occasions do you
remember?

8

9

THE WITNESS: Maybe five or six
approximately.

10

11

MS. FORSTER: Q. And by five or six
you mean this happening to five or six different
people or one person experiencing five or six deaths?

12

13

14

A. No, on different occasions in
different places.

15

16

THE COMMISSIONER: Five different
occasions you found one person ...

17

18

THE WITNESS: Seeming to have more
deaths on the shift that that person was on.

19

20

THE COMMISSIONER: Have you ever
researched this matter, have you got any figures for
us, any instances?

21

22

23

THE WITNESS: I don't have research
on that. I think there is research that I can state
right now that more people die at night and this did

24

25



1
2 seem to occur more at night so that I have heard these
3 nurses expressing fear to work the night shift because
4 with their luck this seems to be what happened.

5 MS. FORSTER: Q. Is there any reason
6 you know of why it would occur at night?

7 A. Not specifically but I think
8 that research has stated that often people's resources
9 are at the lowest at night and often deaths do occur
10 at night.

11 Q. I take it today you are not
12 able to point us to any of that research?

13 A. No, I would have to search for
14 it.

15 Q. Was it your general feeling that
16 deaths occurred more frequently at night, is that an
17 impression you had?

18 A. Generally, yes.

19 MS. FORSTER: Those are all my
20 questions, thank you, Ms. Costello.

21 THE COMMISSIONER: Thank you.
22 Mr. Hunt?

23 MR. HUNT: Thank you.

24 CROSS-EXAMINATION BY MR. HUNT:

25 Q. Now, Ms. Costello, my name is
Hunt and as you know we represent the Attorney General



1
2 and the Coroners.

3 I would like to deal firstly with the
4 creation of these nursing teams, that is, the
5 specific reference to Phyllis Trayner's team, and I
6 understand there were other teams created at the same
7 time. When did that happen?

8 A. When the ward moved from 5A to
9 Ward 4A/B, which was April 1st, 1980. The planning
10 was done just prior to that.

11 Q. Who was responsible for the
12 creation of the teams?

13 A. Liz Radojewski and I did it
14 together.

15 Q. All right. And was this a
16 change in the teams from what had been the team on
17 5A?
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A. We tried not to change teams at the request of the staff, that they preferred to follow through with the same team. That was not one hundred percent possible but we tried.

Q. Was Phyllis Trayner's team left intact?

A. Can I look at WIN sheets from 5A?

Q. Pardon?

A. Can I look at WiN sheets from 5A?

Q. If we have them, certainly.

We are having enough trouble with the ones we have for 4A and 4B. Here we are. Perhaps while someone is looking for that, can you tell me if Phyllis Trayner and Susan Nelles worked together on the same team on 5A?

A. Not with very much confidence until I look at that sheet. They certainly knew one another --

Q. All right, we will leave that for the moment. Can you tell me, was there any reaction from either Susan Nelles or Phyllis Trayner about working together on 4A; were they happy, were they upset, was there just no reaction to it at all?



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A. Are you asking me a specific time period?

Q. Well, once the teams were created in April of 1980.

A. In the beginning I did not hear it, no. Just a moment until I check this, please. When they first came to Ward 4A they were not on the same team.

Q. So April of 1980 Nelles and Trayner go on the same team for the first time?

A. No, they were not on the same team April 1st.

Q. All right.

A. Susan Nelles joined Phyllis Trayner's team on June 1st.

Q. June 1st?

A. Yes.

Q. Does that suggest that they were not on the same team when the ward was up on 5A?

A. Probably not.

Q. So from June of 1980 on the two of them are on the same team?

A. Yes.

Q. And as far as you are aware there was no reaction that was made known to you of any



1
2 sort from the two of them on the question of them
3 working together?

4 A. The beginning there was not.

5 Q. And I take it there was
6 nothing that dictated that they should work together
7 on the same team, no special reason why that was done?

8 A. It probably was to do with
9 who had experience and where experience was needed,
10 or somebody resigning, but it wasn't specifically
11 because of who they were or anything.

12 Q. Prior to June when Susan
13 Nelles joined the team, were you aware of any trouble
14 between the two of them as to getting along with each
15 other?

16 A. No.

17 Q. And I take it that if there
18 was any indication that they might have trouble
19 working together they would never have been put on
20 the same team?

21 A. They wouldn't.

22 Q. Because that is the sort of
23 thing that doesn't really lend itself to an appropriate
24 atmosphere to deliver nursing care in?

25 A. That is right.

Q. And really to put people who



1
C4 2 don't get along on the same team, in the types of
3 situations that arise in Ward 4A and 4B, would really
4 be to simply ask for trouble, wouldn't it?

5 A. Yes, it would be. I guess
6 I would have to say I think it is normal, there is
7 hardly a workforce anywhere where everyone really
8 gets along perfectly.

9 Q. All right, we will look at
10 how perfectly they got along, or how imperfectly they
11 got along in a moment. I suggest that when you are
12 creating --

13 THE COMMISSIONER: Yes, Mr. Brown.

14 MR. BROWN: Mr. Commissioner, this is
15 not supposed to be an inquiry called specifically
16 to look into personality disputes between two nurses
17 on Ward 4A. If we examined every personality dispute
18 in the Hospital, let alone in our own law offices,
19 we would come up with the most amazing stories.

20 I take objection to this line of
21 questioning because this is supposed to be an inquiry
22 into the cause of death. Now if there are instances
23 where for some reason nurses were not able to deliver
24 nursing care to a particular child under the inquiry
25 and that lack of ability to deliver that care may have
in some way influenced the ability to resuscitate a



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child or whatnot, that may be of great relevance.

3

But to narrow this inquiry into a public investigation

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into personality disputes between two nurses, and no

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other nurses, I think really is not appropriate for

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this forum.

7

THE COMMISSIONER: Well, I don't
really know whether it is or not. Surely the

8

relations between the members of the Trayner team

9

might conceivably assist us on the cause of death,

10

it is that simple. It might; I don't say it will,

11

I don't say it will. Surely no one is going to be

12

allowed to investigate the relations between

13

nurses generally in the Hospital. I would think the

14

relationship between -- are you going into this much
more deeply, Mr. Hunt?

15

MR. HUNT: Not with this particular
line, but I don't intend to leave the question once
and for all of the relationship between these two.

17

18

THE COMMISSIONER: No, I think the
relationship between the members of the team certainly
can be relevant.

19

20

21

MR. BROWN: It may be relevant but I
think the case for relevance has to be made. If it

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affected the care of a child, I certainly see the

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relevance, but to simply say that she didn't like the

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soup she was eating that morning, or she didn't like this person's yoghurt, what is the purpose except to focus attention on these two nurses for what I submit is an irrelevant purpose. This isn't some national inquiry into these two nurses; it is an inquiry into the care delivered to children. I think the relevance of this line of questioning must be focused on that fact.

THE COMMISSIONER: Well, as it goes on -- I take it you are supporting that position, Miss Forster?

MS. FORSTER: Mr. Commissioner, in view of the earlier comment that you thought this was an acceptable line of questioning, I would submit that this witness be confined to give evidence of what she has personal knowledge of and not by way of gossip.

THE COMMISSIONER: I think there is a good deal of merit in that.

Yes, Mr. Tobias?

MR. TOBIAS: Mr. Commissioner, my only concern with respect to Ms. Forster's last comment, it is going to be very hard for Miss Costello to tell us what her personal knowledge is if Mr. Hunt is not allowed to ask the questions.



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THE COMMISSIONER: Well, it certainly will be. Well, carry on. I am not going to stop you, at this point anyway.

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MR. HUNT: Q. Miss Costello, I was going to suggest to you just before my friend objected that really when you are creating a nursing team to work in the kind of situations that you have there, the last thing that you want are people on the team who can't work together in a normal professional working relationship?

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A. Yes.

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Q. And the reason for that is it simply creates a potential for all sorts of problems that are not conducive to good nursing care for the children?

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A. It could.

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Q. Now when did you become aware of the increase in the number of deaths in 4A and 4B?

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A. Late July 1980.

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Q. And how did you become aware of that?

A. Observation.

Q. Just something that you saw in your day-to-day activities on the ward?

A. Yes.



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Q. So it wasn't something that

was I take it particularly hard to pick up at that point in time, for anybody who was familiar with the operating of the ward?

A. No, it was more than the usual.

Q. I think we saw that in July, if we count Baby Woodcock who died on the 30th of June, that by the end of July Babies Perreault, Bilodeau, Taylor, Dawson and Hoos had died, so we are talking about six deaths in that period from June 30th to Baby Hoos' death on July 31st. That six deaths in that month was to you as someone with experience working in those situations and on that ward enough to be something that you discerned?

A. Yes.

Q. And did you have a discussion about the increase in deaths during the month of July with anyone?

A. I think generally the nurses were aware of this and worried about it, yes, and discussed it.

Q. And this was in July?

A. As I remember, yes.

Q. And when you say the nurses



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were concerned and worried about it, do I take it from that that it was the sort of thing that there was discussion about the fact amongst the nurses?

A. Yes.

Q. It may not be any one particular meeting called to discuss it, but it was a fact that was discernible to everyone that was commented on?

A. Yes.

Q. Do you recall any specific meeting with anybody where you discussed the fact of the increase in deaths?

A. Not in July.

Q. At this point, and we talking about the end of July, had you become aware of the fact that deaths were occurring primarily at night, that is, this unusual increase in the number of deaths, that in addition to that they were occurring at night, had that fact become apparent to you by the end of July?

A. Yes.



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Q. And had it also become apparent to you by the end of July that the deaths were occurring in the presence of a single nursing team?

A. The facts must have been there but it had not come to me as a conscious concept at that time.

Q. So I take it that latter fact came to you later, some time later?

A. Yes.

Q. Now, was the concern that was being expressed at this point in time a concern about merely the number of deaths or did the concern extend to concern over the cause of one or more of the deaths?

A. The concern included the cause because it included the nurses' examination of conscience, did I do everything, which could only be answered by having a reasonable answer of why the baby died.

Q. I take it from what you have said that it is not unusual in the face of death or more than one death for a nurse or a nursing team to be upset by it?

A. Definitely not.

Q. And to be concerned by it?



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A. Definitely they would be.

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Q. And to talk about it?

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A. Yes, they would.

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Q. Is it fair to say that that

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type of concern and discussion is present even when

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there is really no concern about the cause of

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death? In other words, you completely understand

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why the child died or the children died, it is just

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the stress of having to deal with the fact of those
deaths that brings on the concern?

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A. It is the stress of having

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to deal with it and it is the desire to be sure

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that you have done everything you could.

14

Q. So that when a concern starts

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to develop about not just the fact the babies died

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but the cause of death, what is it that is causing the

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babies to die in this unusually elevated number

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during the month, then is it fair to say that that

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kind of a concern is a little bit more unusual than
a regular concern about death on the ward?

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A. I think it is very much related

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because if I am trying to look at why a baby or a

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group of babies in my care died, I want to know that

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there was adequate explanation for their death always.

24

Q. But as concern grows over a

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2 continuing rise in the number of deaths, did the
3 concern about cause of death become more prominent?

4 A. I do not think so. In my
5 opinion it was always there for the reason that I
6 have tried to tell you.

7 Q. So that there was always a
8 concern as far as you were aware as to what was
9 causing the babies to die?

10 A. Yes, because that was part of
11 our professional assessment of our care.

12 Q. When did you become aware of
13 the fact that the deaths were occurring in the
14 presence of one nursing team, the Trayner team?

15 A. I think it was late summer,
16 perhaps late August, beginning of September.

17 Q. How did that come to your
18 awareness? Did somebody tell you or did you just ---

19 A. Observe, observation again.

20 Q. • You cannot discount that
21 sort of capacity to observe that one has from
22 simply being there day after day?

23 A. No, you cannot.

24 Q. And that is basically how you
25 have become aware, as you have indicated, of not
only the increase in deaths, but when it was happening



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2 and in the presence of whom it was happening?

3 A. Yes.

4 Q. By the end of August, I think
5 we have heard that in addition to the six babies that
6 had died in July, we now had babies Turner, Shrum,
7 Monteith, Murphy and Velasquez, that is an additional
8 five. So by this point in time we are up to 11 deaths
9 in a relatively short period of time that, I take it,
10 were still of concern to everyone?

11 A. Yes.

12 Q. Would it be fair to say that
13 by the end of August it was really common knowledge
14 amongst the nurses who were working on the ward that
15 not only was there this unusual increase in the
16 number, but that the babies were dying at night and
17 they were dying in the presence of this particular
18 team?

19 A. I think that was general
20 knowledge by that time.

21 Q. Now, let us pick the end of
22 August as a reference point and the sort of concern
23 that existed at that time, and by that I mean,
24 concern about an elevated number of deaths, that is
25 11 we are looking at in two months at night,
predominantly at night, in the presence of a single



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2 nursing team, if we could put all that concern into
3 a package, is that unusual, in your experience, at
4 that point in time?

5 A. I do not know. I think I have
6 been trying to say this morning that I have known
7 this type of thing to happen before.

8 Q. Well, you referred to people
9 having I think you said a run of bad luck where they
10 would be on duty where a number of babies would die
11 in a period of time, that you had seen that ---

12 A. Yes.

13 Q. --- before in your 31 years,
14 is it, of nursing?

15 A. Yes.

16 Q. And I can understand that.
17 But what I am asking you is had you ever been con-
18 fronted with the type of situation that you were
19 as at the end of August, where you are dealing with
20 11 babies over a two month period at night and in
21 the presence of a particular team. Can you ever
22 remember an occasion that sort of ranks up there
23 with that one?

24 A. I think the unusual factor
25 about this is the number.

Q. It was a higher number than



1
2 maybe you had experienced before?

3 A. And the significance of the
4 number was that it was a higher number in comparison
5 to the past months and years on our ward.

6 Q. So that as at the end of
7 August, the situation was different for you inasmuch
8 as there were more babies whose deaths were of
9 concern because of the unexplained concern over
10 the cause?

11 A. Yes.

12 Q. And then I take it from that
13 point on, that is, the end of August, really the
14 only thing that happened that distinguishes this
15 situation from situations in your prior experience
16 is that the number of deaths continued to grow and
17 grow as the months went by, they continued primarily
18 to be at night, and they continued to be in the
19 presence of the same nursing team?

20 A. Yes, if you say only, though,
21 I have to add that we took some action, we had some
22 meetings to discuss this.

23 Q. No question, and I agree that
24 the situation called for something to be done and
25 matters to be discussed, but if at the end of August
the situation for you was unusual in your 31 years,



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3 or I guess it was not 31 then, but upwards of 30 years,
4 it continued to get more unusual as the months of
5 September, October, November, December, et cetera
6 rolled by.

7 MR. ROLAND: Well, Mr. Commissioner,
8 I do not know where my friend gets that statistically.
9 I mean, we know that there were a number of deaths,
10 an unusual number of deaths in July and August, but
11 if my friend says they continued to grow and grow ---

12 THE COMMISSIONER: Well, I think
13 he is overstating it a bit.

14 MR. ROLAND: He is overstating it.
15 I mean, they dropped off to two in September, three
16 in October, one in November. I mean, if my friend
17 is going to put the question, he should put it fairly.

18 MR. HUNT: No, I am not overstating
19 it at all, with respect. I am dealing with this
20 witness and her experience over 30 years.

21 Now, I put it to her as a package.
22 I said at the end of August you have got three factors:
23 deaths, increase in the number, nighttime, presence
24 of the same nursing team, and at that point in time
25 it was unusual. Now, if my friend wants to suggest
that there was some change in the next eight months
in that pattern of an overall increase in the presence



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3 of one team at night, then it will be the first time
4 that I have seen that.

5 THE COMMISSIONER: Well, ours,
6 Mr. Hunt, are two in September, three in October
7 and one in November, I think, so it is not quite
8 at the same pace. That is all that Mr. Roland was
9 saying.

10 MR. HUNT: I am not suggesting it is
11 at a pace of five or six a month.

12 MR. ROLAND: Well, that is what
13 he said. He said it is growing and growing. Those
14 are his words.

15 THE COMMISSIONER: Yes. Well,
16 that is why I suggest that perhaps if you allowed the -
17 you have been carried away with the language of
18 the metaphor. It was not growing and growing. It
19 was perhaps just continuing at a slightly diminished
20 pace during the fall.

21 MR. HUNT: And then grew.

22 THE COMMISSIONER: And then grew,
23 all right.

24 MR. HUNT: All right.

25 THE COMMISSIONER: Anyway, now that
you have heard all of that, Ms. Costello, you can
answer the question.



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3 THE WITNESS: I can answer your
4 question, yes.

5 MR. HUNT: Q. I missed that
6 question.

7 A. Well, he said it stayed at a
8 slow pace and then later it increased, and that is
9 the question that I am answering yes.

10 Q. All right. To be more
11 precise than I was, then, I am dealing with sort of
12 your perception of it because you have a considerable
13 number of years of experience in nursing. If you
14 viewed what was happening at the end of August as
15 an unusual situation in your experience, then my
16 point is that as time marched on from then until

17 the 22nd of March in the following year, I
18 suggest the only effect that the events could have,
19 whether they moved slowly at one point and then
20 increased or they moved at the same pace, was this
21 situation became more and more unusual when compared
22 to anything that you had experienced before?

23 A. I am a little ambivalent. It
24 was more unusual and we were more concerned, but I
25 have been aware and I think there are statistics
to show that often deaths do occur in cycles on a
graph, so that there are more sometimes than others.



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Q. Can you remember anything in your experience that compares to this, any cycle that compares to this?

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A. I think Dr. Bain and the Medical Records Department at the Hospital did some statistics that show this type of a cycle thing. I cannot say that there is anything exactly like this one.

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Q. Well, we do not have to get so precise as exactly like it. Can you point to anything that bears any resemblance in your experience, talk about runs of bad luck or anything else, that bears any resemblance to what happened here between June 30th and March 22nd?

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A. No, if you enlarge the period to that length, no, I do not think so.

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Q. Now, would I be right in suggesting that it was not too long after the Trayner team was created that it became apparent that there was conflict between Susan Nelles and Phyllis Trayner?

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MR. BROWN: Does my friend have a particular instance in mind?

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MR. HUNT: Well, we will get to particular instances and then I am sure my friend will have more objections, but my question to you is ---



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3 THE COMMISSIONER: Your question is
4 legitimate. I think if you are aware generally that
5 there was conflict, I do not see what is wrong with
6 that, Mr. Brown.

7 MR. HUNT: Q. Do you want me to
8 put it to you again just to get it clear?

9 A. All right.

10 Q. I said would I be right if I
11 suggested to you that it was not too long after the
12 creation of the team that it became apparent that
13 there was conflict between Susan Nelles and Phyllis
14 Trayner?

15 A. I think thinking of that
16 period of time I would like to modify the word from
17 conflict to different personalities with different
18 ways of working, which was not necessarily conflict,
19 so shall I answer no.

20 Q. Why do you not explain what
21 you mean by different personalities?

22 A. Probably not different to you
23 and me being different personalities, but also
24 Phyllis and Susan had different personalities,
25 different ways of looking at things.

Q. Would the difference in their
personalities bring them into conflict?



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A. I think what I am saying to
you now is that at that time I was aware that there
was a difference in their personality. I was not
aware of a conflict at that time.

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THE COMMISSIONER: You were not
aware of the conflict?

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THE WITNESS: At that time, no.

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MR.HUNT: Q. At that time, what
do you mean?

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A. I think you said soon after
their joining in a team.

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Q. Let me just put to you something we were told by Carol Browne about that and I will ask you if it sounds familiar to your experience and your knowledge and whether you agree with it.

Now, Carol Browne testified here in December.

THE COMMISSIONER: Yes, Mr. Brown.

MR. BROWN: If Mr. Hunt's particular line of questioning is on a particular subject matter, I would much prefer that the nature of the subject be put directly to the witness, get her answer and then if he wants to compare that with testimony given by another witness, fine, but I think properly we should get fresh testimony from this witness rather than laundering it through the previous testimony of another witness.

MR. HUNT: I am sorry that I don't do things in the way my friend would prefer them but there is of course reason for what I do that may not suit him and lest there is some real reason that I should be prevented from asking this witness whether another's experience compares with her then I submit that I should be entitled to do it.

THE COMMISSIONER: Well, the only



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2 thing that would disturb me at all would be if you
3 are putting something, some incident or something
4 like that related by Carol Browne that she knew
5 nothing about and it was going in that way, but
6 however, since we have had Carol Browne's evidence
7 I am not so concerned. I would be concerned though
8 if you were going to say something that some other
9 witness had reported on, I would much rather you
10 did it and you may want to please Mr. Brown but
perhaps you might want to please me.

11 MR. HUNT: Oh, certainly, sir.

12 THE COMMISSIONER: If it is some
13 other witness rather than one who has testified I
14 would rather you put the question first before going
15 back to whatever notes you have on this other witness.

16 However, I think in light of the fact
17 that Mrs. Browne has given evidence that I will allow
it.

18 MR. HUNT: Thank you, sir.

19 Q. Now, Mrs. Browne testified
20 about conflict between Susan Nelles and Phyllis
21 Trayner. I am looking at Volume 85 at page 8450
22 and getting near the bottom she was asked:

23 "Q. What was the nature of the
24 conflict that you became aware of?
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"A. I didn't feel that it was particularly unusual for any group of people working together in a stressful situation.

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Q. You can comment on it afterwards if you could, but just tell me first what the nature of the conflict was?

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A. My understanding of it at that time was that some difficulties in working together in the sense of trusting one another on the team, and in terms of delegating or respecting the role of the other.

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Q. Anything else?

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A. That is all I can recall."

A little farther on on page 8451:

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"Q. Now this conflict with respect to trust, and delegation of authority of respect, when did you became aware of the existence of it?

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A. I believe it was in the fall.

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Q. The fall of 1980?

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A. Yes.

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Q. Do you recall when in the fall?

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A. No.

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"Q. And at the time that you became aware of it, do you know how long the conflict had existed?

A. I think I had assumed that that was part of their coming together as a team with the move from the 5th floor to the 4th floor.

Q. Which occurred some time in the spring?

A. April.

Q. In April?

A. Yes.

Q. So, you heard about it in the fall and at that time you were under the impression that it had existed for some number of months prior to that point in time?"

Now, you have obviously clarified for us when the team came together and my first question to you is: Do you agree with Mrs. Browne that the conflict that was present between these two involved trust of each other and delegation of authority in respect of another person?

A. What I can say isn't as strong as what Mrs. Browne said. I think when she speaks



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3 of delegation of authority she may be speaking of
4 the fact that Susan felt equally competent to be
5 team leader as Phyllis.

6 Q. I beg your pardon?

7 A. I think when she speaks of,
8 say your question again, something about authority,
9 or say what Carol said?

10 Q. Well, I referred to that as
11 being part of the conflict that she described it
12 as one that had to do with trusting one another,
13 delegation of authority or respect for each other's
14 roles.

15 A. Delegation of authority and
16 respect for one another's role may have come from
17 the fact that Susan felt equally competent to be a
18 team leader as she perceived Phyllis to be.

19 Q. All right. Was that something
20 that you were aware of?

21 A. I was aware of it at some
22 point as a problem that Mrs. Radojewski was dealing
23 with.

24 Q. All right. Was that a part
25 of what you referred to as the personality differences
between them or is that something separate?

A. It probably relates but the



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2 personality differences were a way of looking at
3 things, a way of working. Phyllis was much more
4 of a questioner, sought help before she got too
5 deeply into things, whereas Susan was more of a
6 let's assess the facts and do it.

7 Q. All right. So, Phyllis looked
8 to be reassured or seek advice before she did some-
9 thing and Susan worked more towards doing it. I'm
10 not suggesting in a careless fashion?

11 A. No, after having assessed the
12 facts herself.

13 Q. All right. And Phyllis
14 obviously was the team leader?

15 A. Yes, she was.

16 Q. And Susan wasn't.

17 A. Yes.

18 Q. And you were aware of some
19 feeling that existed, at least on Susan's part,
20 that she was equally competent to be a team leader?

21 A. Yes, I think she expressed
22 that.

23 Q. Well, were you aware then of
24 whether or not the conflict involved any type of
25 a power struggle between the two in terms of the
responsibilities that would be carried out by the



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team leader?

A. No, I can't go any further than the last statement on that.

Q. All right. Well, would you agree with me that the conflict that Mrs. Browne has described and your comments with respect to the feelings that existed were not a particularly helpful factor to have operating on any nursing team?

A. I feel like answering you not helpful but not particularly detrimental.

Q. I beg your pardon?

A. I feel like answering you not helpful but not particularly detrimental as I saw it.

THE COMMISSIONER: You just answer whatever way you want to, don't feel you have to ask permission.

THE WITNESS: Okay.

MR. HUNT: Q. So, just to put it fairly, you agree that it is not a particularly helpful factor but in this particular case as far as you were aware it wasn't particularly detrimental?

A. Yes.

Q. But it is the sort of factor that you really don't want to have if you can avoid it.



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A. It is easier, it is probably
utopia to not have some personality differences.

Q. Well, as between the two, that
is, Nelles and Trayner, was one of them in your
experience the more dominant force on the ward?

A. I don't know how to answer
that. Dominant in power, dominant in...?

Q. Dominant in the sense I suppose
of getting things done efficiently.

A. No.

Q. With the least fuss.

A. Well, I have obviously said
that Phyllis made more fuss about it. I don't know
whether that implies that she was less competent or
dominant or more dominant or whatever.

Q. Well, was one regarded as more
capable than the other generally by the people on
the ward?

A. I don't think so.

Q. Was the fact that Phyllis
Trayner was the team leader an indication that she
was held in any higher regard than Susan Nelles on
the ward?

A. There is a position authority.
There is such a thing as a position authority versus



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2 a personal authority. I know that in theory. I
3 don't know that it made much difference in this
4 case.

5 Q. Well, are you aware as to
6 whether or not it upset Phyllis Trayner the team
7 leader that Susan Nelles was a person that felt she
8 was equally capable of being a team leader and was
9 the type of person who assessed the situation, got
10 the job done with less fuss?

11 A. The first part of your
12 question, no; the second part I expect that it was
13 more difficult for her to work with someone who
14 had a different approach than she did.

15 Q. And it really was a different
16 approach by the sounds of it?

17 A. I think so.

18 Q. The difference being really
19 I suppose the ability to take control of the
20 situation reflected by Susan Nelles' approach?

21 A. I don't understand that
22 question.

23 Q. Well, you say Phyllis Trayner,
24 there was a certain amount of fuss attached to her
25 doing something inasmuch as needed reassurance and
she sought out advice before she did it, whereas,



1
2 Susan Nelles was the sort of person who took a
3 challenge, assessed the situation and did the job.

4 A. And now what was the question?

5 Q. Well, I forget the question
6 now.

7 I suppose I was suggesting that there
8 really is quite a difference between those two
9 approaches.

10 A. There is a difference. I
11 don't think that it affected their competence. I
12 think each in their own way could perform competently.

13 Q. Well, it may not have affected
14 their competence but I think you indicated that the
15 difference may have made the job more difficult
16 for Phyllis Trayner?

17 A. I can't say yes or no to that.

18 Q. Well, what was it that you
19 just said then a moment ago, I thought that was just
20 what you said.

21 A. I don't recall us saying that
22 this made the job more difficult for Phyllis. I
23 guess I am saying that people with a similar approach
24 probably worked more easily together.

25 Q. Well now, you gave some evidence
on Monday to my friend Ms. Cronk about the Baby Hines



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3 resuscitation.

4 A. Yes.

5 Q. And I think you told her that
6 that was a particularly stressful situation.

7 A. Yes.

8 Q. And as I recall your answer
9 you suggested that you had been approached after
10 the resuscitation attempt was completed or perhaps
11 during it, I wasn't sure.

12 A. No, not during it.

13 Q. After. And advised of the
14 fact that it had been particularly stressful.

15 A. Yes, by an individual nurse.

16 Q. By an individual nurse who
17 was involved in the situation?

18 A. Yes.

19 Q. And at that point in time were
20 you made aware of any particular situation that you
21 thought unusual?

22 A. The length of the resuscitation
23 attempt and as well as the length of it, the fact
24 that Jordan seemed to be responding to the resusci-
25 tation efforts, then they would lose them again,
they would try longer, he would almost respond a
little, then lose him again. That was very stressful.



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Q. And that is essentially all
you were told then about it?

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A. I think I spoke with Ms. Cronk
about Meredith Frise speaking about her own fright
because she was in the room when unexpectedly this
baby's cardiac and apnea monitor went off.

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Q. All right. So, you were told
about the length of time that it took, about the
fact that he seemed to come back and then slip away
and you were told as well about the fright that
Nurse Frise experienced when the monitor went off.
Were you told of anything else or is that the extent
of the knowledge you were given at that time about
this attempt?

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A. I think that is the extent of
what I knew.

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Q. All right. Well, has it ever
been suggested to you by anyone at anytime that
there was a potential problem for nurses as a
result of something that occurred during the attempts
to resuscitate Jordan Hines?

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A. Of something that occurred,
no. I think I had been asked that or have been
aware from previous testimony that some people
alleged there was something about a pacemaker, but



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I have only heard it through this place.

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Q. All right. So, you know what
I am getting at?

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A. I did not have awareness of
that prior to being here.

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Q. What I'm asking you, when you
were approached and told about things that went on
during that resuscitation attempt, the stressful
situation, what you are telling us is that at that
time no reference was made to the potential problem
of any sort that may have arisen as a result of what
happened?

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Q. The first time you became aware of that was after Nurse Frise had given some evidence at the preliminary hearing?

A. Actually, I think it was when -- I think Miss Cronk asked me if I was aware of that and that made me search out whether something like that had been said before that I was not aware of it.

Q. And it had never been said to you?

A. No.

Q. And you sought out the information as to what it was that was suggested had occurred?

A. I haven't got very much, I just saw in the baby's record that a pacemaker was inserted and that it became disconnected, but at that point it was considered that it was too late to save Justin and it was not reinserted.

MR. TOBIAS: I'm sorry, I missed the last part of that answer.

THE COMMISSIONER: It was too late to save Justin, but you meant Jordan.

THE WITNESS: Jordan, yes, I am sorry. Is that what you want or more?



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MR. TOBIAS: Thank you, no, that is sufficient.

MR. HUNT: Mr. Tobias has offered you to try to get more.

MR. BROWN: Mr. Commissioner, I am not sure whether he can go on. It is no secret what Mr. Hunt is trying to get at. If I might --

THE COMMISSIONER: He hasn't got it.

MR. BROWN: He didn't get it and there will be other attempts to get it but I would like to make one submission and I will keep quiet. It has to do with the resuscitation of the patient Jordan Hines. Two doctors who were present at the resuscitation have testified, Dr. Costigan who was there throughout most of the resuscitation and Dr. Rose, who was there towards the latter part. Dr. Costigan was asked several times by Mr. Lamek if I recall; do you recall anything unusual about the resuscitation efforts. I recall Dr. Costigan saying something to the effect that in light of the fact that the child revived and then seemed to slip back. Anything about a dispute over a pacemaker by nurses? No. Dr. Rose testified and was asked --

MR. HUNT: Perhaps he was too busy looking after Jordan Hines to be involved in an



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argument over a pacemaker.

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MR. BROWN: It seems to me that if an argument over a pacemaker would have affected the care given to the child that the doctors present at that resuscitation would have been acutely aware of that fact and would have been in an excellent position to give their testimony that they felt that the resuscitation efforts of that child were prejudiced by some dispute. There is no testimony like that. I think in the absence of that testimony to try time and time again to get in hearsay evidence over this one particular incident is inappropriate. If everyone is keen on getting it, call Miss Frise and see what she has to say and we will hear from the other nurses present at the resuscitation in due course. With great respect this is pushing the matter a bit too far.

THE COMMISSIONER: If it is any comfort to you I don't remember anyone saying anything except Mr. Tobias and Mr. Hunt about this pacemaker. I haven't heard any evidence about a fight over a pacemaker at all. But there is no harm really in their trying to get it, and everything that you have said is a question of weight. If they succeed in getting it from somebody, then you can always argue that the evidence was not worth much because it was



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not sufficiently noisy, if you like, to come to the attention of the doctors there and therefore I shouldn't pay a great deal of attention to it. That is all I am saying.

MR. BROWN: I can understand, sir, that it does go to weight.

THE COMMISSIONER: Yes.

MR. BROWN: I certainly apprise myself of that. However, I think there is another factor that has to be considered. It may go to weight but the ability of a counsel to cross-examine a witness on second, third, fourth-hand information is quite limited.

THE COMMISSIONER: Well, we have dealt with that upstairs and we are going to try to --

MR. BROWN: This is a public inquiry, sir.

THE COMMISSIONER: Yes.

MR. BROWN: And the reputation and the competence of my client, amongst others, is being trotted out day by day. If there are going to be allegations made that for some reason my client did not give proper nursing care to a child I would like to hear that evidence from the people who were present at that time so it can be dealt with with those



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people. I do not want to hear it, sir, from second or third-hand sources where the allegation is in the air and there is no real opportunity to dispel whatever allegation might be raised.

THE COMMISSIONER: Now, Mr. Hunt, I haven't given you an opportunity even to argue this question, so I really can't rule against you. You remember what we discussed upstairs about this sort of thing. I would much prefer to have it from somebody who was there, but you have already not only discovered that Miss Costello was not there but she didn't even hear about it, so I think we can leave that subject, can we.

MR. HUNT: Can I just take advantage of her many years of experience in nursing and ask her a hypothetical question?

THE COMMISSIONER: I think so but unfortunately with all this preparation we know what the hypothesis, what it is based on, but you go ahead and ask her a hypothesis.

MR. HUNT: I won't get into minute detail in the hypothetical question.

THE COMMISSIONER: All right. Okay. If you are going to ask, is it a good thing to have two nurses quarrelling over the manner in which they



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should resuscitate a child, I think I can give the
answer to that. Is that the question that you are
going to ask?

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MR. HUNT: Well, I will accept your
answer.

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Q. Would you agree with the
Commissioner -- well, we can all agree that that is
not a very good thing to happen, two nurses in the
middle of a resuscitation quarrelling openly over
whether it was not the right pacemaker that was
brought?

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A. It is a hypothetical situation,
definitely it is not appropriate.

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Q. And that would suggest I put
to you if that occurs that there is a rather serious
conflict that exists between the two people who would
get involved in that sort of a discussion or argument
at that particular time?

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A. I guess I can only say that
I don't know that they did.

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Q. We are still talking about
the hypothetical situation, I assume you would be
quite concerned about if such a situation was brought
to your attention, you as a nurse with your experience
would be quite concerned about whether or not that



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reflected some rather deep-seated conflict that
existed between those two people?

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A. I want to continue thinking
of this as a hypothetical situation.

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Q. Yes.

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A. And to answer you by comparing
it to other situations.

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Q. Well answer me first and then
you can compare it. You would be concerned would you
not if that sort of a situation was brought to your
attention?

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A. If it caused a slowing of
the treatment of the child, yes, I would.

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Q. You mean you would want to
find out what the effect was before you simply talked
to them to see if you could prevent it ever happening
again?

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A. Yes, I believe in listening
to employees before I do something to them.

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Q. So you would want to deal with
it if it was brought to your attention?

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A. Yes, I would. Can I still
talk about the comparison?

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Q. Sure.

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A. I think professional judgment.

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2 and you are probably more aware of that in medicine
3 that it is right and appropriate that there are
4 different opinions. I think most doctors would agree
5 there is no one right way, and perhaps nurses too,
6 and that they would have the right to do that, but I
7 do agree with you that it would be definitely wrong
8 for them to do this if it slowed the resuscitation
9 efforts on Jordan Hines. It is also not a nursing
10 decision what kind of a pacemaker to use, so I don't
understand why they would be involved with it.

11 Q. Certainly not the normal
12 thing one sees in a resuscitation effort, is it?

13 A. No.

14 MR. TOBIAS: Just before my friend
15 moves on because I anticipate that he will, I want
16 to make one comment I think in fairness to Mr. Brown's
17 submissions. I think the only time this issue has
18 ever been raised to my knowledge with any witness
19 was during my cross-examination of Nurse Browne.
20 This morning and yesterday Ms. Cronk put it to this
21 witness. Mr. Brown seemed to make the comment that
22 in the evidence in chief of Dr. Costigan this scenario
23 was put directly to him. That does not correspond
24 with my recollection of that evidence. He was asked
25 whether anything unusual happened but he was not asked



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specifically about any incident regarding a pacemaker
nor did he direct his mind to that issue, and I just
want to make that clear.

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THE COMMISSIONER: Can I just say
to you what I said to Mr. Brown, that that seems to
be argument as to weight and you can make that at the
appropriate time.

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Yes, all right.

MR. HUNT: Yes, Mr. Commissioner, I was
ready to move on.

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THE COMMISSIONER: Yes, go ahead.

MR. HUNT: Q. Now, I think it is
quite clear from what you have said, Miss Costello,
that the increase in the number of deaths, the concern
over that, the fact that they were happening at night
and the fact they were happening in the presence of
one team created concern and stress, that really
once it started in July it continued to mount through
the following few months into the fall?

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A. Yes.

Q. And would I be right that the
stress and concern it created was so great that the
question of psychiatric counselling for the nurses
involved was discussed and considered several times
in that period?



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A. The nurses requested psychiatric help to deal with the stress that they felt themselves to be under.

Q. And when was the first time that you were aware that that issue was being canvassed?

A. Approximately late summer.

THE COMMISSIONER: I'm sorry, late...?

THE WITNESS: Late summer, before September.

MR. HUNT: Q. So this was sometime late August?

A. I think so.

Q. This is in the period when we were into around 11 deaths I think?

A. I believe you are right.

Q. So we had six in June and July, including June and July, and five in August.

Were you involved in any of the discussions concerning the possibility of psychiatric counselling for the nurses involved?

A. Yes. I was aware that they wanted it and I thought it was a good idea.

Q. And was it raised to you by



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anyone in particular?

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A. It was raised in the nurses' meetings by groups of people, I can't name individuals just now, until October I can name some individuals.

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Q. I couldn't hear the last part of your sentence.

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A. In October I know of individual persons, but in the summer I only have an idea that we spoke of it in meetings; I can't give you names.

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Q. Well the first time it was raised then I take it in the summer was in one of these meetings?

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A. Yes.

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Q. And was a decision made at that time to do something about it, or was it just really raised as something that may be necessary in the future?

A. It was requested.

Q. When you say it was requested, do you mean it was requested from whom, permission for it was requested?

A. Yes.

Q. From whom?

A. I spoke to my Area Coordinator



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2 and I understand that Carol Browne spoke to someone
3 and I am not sure I know whether that was the
4 Psychiatric Department or who.

5 Q. When was the next time then
6 that you can recall it being raised in the formal
7 setting of a meeting?

8 A. Without looking at the notes
9 now I would think October. It may have been raised
again in the meantime.

10 Q. It may have been raised in
11 the interim?

12 A. Yes.

13 Q. Well was anything done to
14 pursue it in the interim between late summer and
October?

15 A. It was requested and we
16 realized that a psychiatrist would be available to
17 the ward for the patients and families, not for the
18 staff.

19 Q. And I think you said yester-
20 day that it ultimately was not pursued until some
21 time in April of 1981 or late March?

22 A. The first time that a
23 psychiatrist was available to the staff was at a
24 meeting on the day of Susan's arrest, on that evening.
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2 Q. That is March 25th. Well,
3 I suggest to you that this kind of concern for the
4 psychiatric counselling in the summer and fall of
5 1980 in the context of the situation that it was
6 raised in was unusual.

7 A. I don't think it is unusual
8 for people who are under stress in their work situation
9 to ask for help; whether it is unusual to ask for
10 psychiatric help, I don't think so. I think that is
11 what nurses would ask for.

12 Q. My question was to you, the
13 fact of it happening in the context of the events
14 that had occurred and the fact that people were con-
15 cerned and upset enough to be considering psychiatric
16 help, I suggest to you that was an unusual situation.

17 A. No, it wasn't particularly.
18 I had heard it before that. For example, on 5A I
19 had heard staff say these deaths upset me, I'm young,
20 I'm new, I'm not accustomed to them; I would like to
21 have discussions.

22 Q. How many deaths?

23 A. I can't remember. I think
24 at that time we even did have Dr. Froese I think his
25 name is come for a group discussion on this and this
was long before this period.



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Q. I want you to listen to my question though.

A. Okay.

Q. By late summer there were 11 deaths, it was in the presence of a nursing team, the same team, at night; there was concern over what was happening, what was causing these children to die; it continued on in September, nurses were concerned enough to be raising the question of psychiatric counselling. I am not referring to situations where a new nurse may have wanted psychiatric counselling to help her deal with two or three deaths that had occurred.

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I am talking about a situation where there were many, many deaths in the presence of one team, at nighttime, and that that fact alone was raising the stress level to the point where people were considering psychiatric counselling. Now, I am suggesting to you that that type of a situation, that psychiatric counselling being considered in the context of that series of events was unusual, and if you say it is not, then I want you to refer us specifically to some other time when as a result of multiple deaths in those circumstances people felt they may need psychiatric counselling.

A. The logical answer to me is that the situation was unusual. For nurses to seek psychiatric support when they are under stress is not unusual.

Q. I do not dispute that proposition with you at all. I am just saying to you in your years of experience I suggest to you you had never come across anything like this that led to the request for psychiatric counselling?

A. I have never come across anything like this regardless of the psychiatric counselling.

Q. All right. Now, was the



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question of splitting up the Trayner team raised at
some time during this period?

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A. Yes.

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Q. When, do you know the first
time?

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A. I can find it in writing in
October 1980. I think that it had been discussed
before this.

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Q. All right, and it was discussed,
then, I take it both formally and informally amongst
people in this period of time?

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A. Yes.

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Q. What was the concern as to
splitting up the team about?

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A. Relieving some of the stress on
the individuals on that team.

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Q. Is that a common occurrence to
split up a nursing team?

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A. It is not usual but it is not --
I do not know what common means. It is not totally
uncommon and it is not very common.

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Q. It is not very common but it
happens?

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A. It is not really unusual.

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Q. Does it usually happen because



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the nurses on the team are under stress from deaths?

A. There is nothing usual about that, I do not think, but that certainly would be an indication to try to help that team.

Q. Well, this was then really in the context of what the basis for it was, this is a pretty extreme response to a stressful situation?

A. It was in response to members of that team expressing the need for support because of their stress level.

Q. The fact that it was contemplated is, I suggest, reflective of the seriousness of the situation as it was perceived at that point in time, that is, October?

A. Situation means the stress level of these people?

Q. The stress level brought about by all these deaths that had occurred?

A. Yes.

Q. Now, I think you said that there was some concern on the part of others that they did not want to work on the Trayner team?

A. Yes.

Q. Did that concern on the part of the others about not wanting to work there, did that



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arise during these informal discussions and the formal discussions or is this something you learned some other way?

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A. It arose during discussions of possible plans to alter the team structure on the wards.

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Q. What was the reasoning behind not wanting to work on the Trayner team?

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A. The number of deaths that occurred, nobody would wish themselves into a situation like that.

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Q. Well, was there some feeling like it was preordained that this team was going to experience an unusual number of deaths on into the future indefinitely?

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A. I guess preordained is as good a word as bad luck and jinxed and others that I have heard in relation to it.

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Q. Well, inasmuch as the team was not split up at that point in time, can we take it from that that there was no concern on the part of the people who would be in a position to split the team up about the level of care that the team members were delivering to the patients?

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A. There was not.



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Q. It was not felt that this was a team that was prone to making a lot of medication errors or sloppy work in how they treated the patients?

A. Definitely it was not.

Q. Because if there had been any concern that this team was the sort of team or any member was the sort of person who might be prone to medication errors, et cetera, then I take it some action would have been taken at that point in time to rectify the situation?

A. Definitely it would.

Q. So it was felt at that point in time, certainly, that this team, the members, as far as the way they dealt with the patients is concerned, that they acted carefully and deliberately and not in a sloppy fashion at all?

A. Yes.

Q. Well, I take it from everything you have told us about this period of time up until the fall that the concern and the stress that was created by this series of events that was sort of ongoing was a day to day feature of life on the ward?

A. More or less.

Q. It was not something that was



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just raised every few weeks at a meeting. It was something that people lived with every day when they came into work?

A. Can you remind what period you are speaking about?

Q. Well, so far we are up to I think October in our sort of chronological examination of the period, and that is the point in time I am referring to.

By that time the nurses working on that ward, particularly the ones working on the shift with the Trayner team, this was a day to day feature of their working life on the ward, the stress and concern that there was about the number of deaths happening in the presence of this team and happening particularly at night?

A. Yes, it was.

Q. And that concern and stress and the problems created by it I suggest to you that was a day to day feature of life on the ward in the fall, never really went away?

A. No.

Q. It went right through until March 22nd of 1981?

A. Yes.



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Q. The only time I suppose that one could say that it was alleviated was after the deaths stopped with Justin Cook?

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A. Stress was not alleviated but that particular stress was.

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Q. I suppose there was a different type of stress after that point in time?

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A. Yes, it was somewhat related, though. We were still very afraid of more deaths.

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Q. You did not have any, though, did you?

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A. A few.

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Q. You did not have any unexplained ones in the sense that we are looking at the deaths that occurred in that period, did you?

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A. I think that is more for the experts here to answer than for me.

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THE COMMISSIONER: Well, I do not think there were any, were there, in that period?

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MR. HUNT: Q. I do not think there were any.

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A. There were deaths before I left Sick Children's Hospital, but not in that quantity, no.

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THE COMMISSIONER: Perhaps I am wrong.



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THE WITNESS: There were not any on the ward for a while, but that did not relieve our fear that there would be, and the conditions that we would have to live with if that happened.

MR. HUNT: Q. All right. You had fear that there would be because of your experience in the nine months, but I am putting to you that you did not have an actual occurrence or series of occurrences after the 22nd of March like you had in that nine months?

A. No.

Q. Now, could I direct your attention to the diagram that is over here on the board, and I am afraid I do not know the exhibit number of it to refer to. It is not marked. Then I would like to tender this as an exhibit. I was up most of the night preparing this.

THE COMMISSIONER: We have several diagrams like that, but that is a bigger one, so, all right. What is the number?

THE REGISTRAR: 337.

THE COMMISSIONER: 337.

--- EXHIBIT NO. 337: Sketch showing a portion of the fourth floor at the Hospital for Sick Children.



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MS. SYMES: Mr. Commissioner, the only concern I have with that exhibit is that it is not the complete ward. The south wing of Ward B is missing, which has made it difficult for this witness to talk about the entire ward. If we used another exhibit --

THE COMMISSIONER: Well, we have pictures of the ward itself. One is Exhibit 304, which does seem to have the south wing. Why don't I just hand that to the witness so that if you have any problems you can refer to that as well.

MR. HUNT: My questions, I do not think, are going to take the witness into an area of the ward that is not depicted in this particular diagram.

THE COMMISSIONER: Yes, all right.

MR. HUNT: Q. Now, with the permission of Counsel for the Hospital, I had the opportunity, along with Ms. Cecchetto, last Friday to tour the ward, and can I just --

THE COMMISSIONER: Can I just interrupt you. I have been meaning to say that I did much the same thing and I had not made an announcement of it. I went with Ms. Cronk and Mr. Batty back in, I think it was Monday of last week.



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I had understood that we were not going to go as a mob. We were going to go making our arrangements with the Hospital staff, and anyone who has not done that I think can make that arrangement with any of the Hospital lawyers and do it just the way you and I did.

MR. HUNT: I might say we are very grateful to the Hospital for their assistance.

Q. Now, I just wanted to ask you a number of things.

MR. TOBIAS: Excuse me, Mr. Hunt, could you speak up? You are away from the microphone and it is difficult to hear you.

MR. HUNT: Yes, certainly.

Q. On my observation of the activity on the ward, it struck me that this area here marked as Counter is really the nerve centre or the action centre of the ward; is that a fair assessment of that particular place? I appreciate things are going on all over, but --

A. That is the clerical area, the clerical and receptionist area, so that people would come for things that a reception would do, a receptionist would do, like delivering things or coming to collect things or asking for directions



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2 would happen there. Yes, it is a busy place, but
3 I would not consider it where the vital work of
4 the ward happens.

5 Q. No, I am not suggesting the
6 vital work. The vital work is obviously done in the
7 patients' rooms, but in terms of, say, the non-direct
8 patient care aspect of the work, this struck me as
being the place where it was being done?

9 A. Yes. You saw behind there too
10 in the nurses' station, did you, where work goes on
11 as well?

12 Q. Yes, this appeared to me to be
13 sort of an area with a table added where people could
14 write or make notes if they had to.

15 A. Yes.

16 Q. But the charts and material
17 that seemed to be in use was kept up here in this
bank of shelves; would that be fair?

18 A. Maybe I could confirm what you
19 are saying too to say it was designed that way so
20 that there was an area behind there where nurses and
21 doctors and other professionals, when they were
22 working, were not exposed to everyone who came to
the desk asking for messages.

23 Q. But there is an area back here
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that where it is necessary to do some work, it is
available to sit down there and write, et cetera?

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A. It is buffered by the clerical
area in the front.

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Q. That is right. Now, the other
thing that I noticed, and we have heard reference to
it a number of times, are these windows between rooms
431 and 418, and there is three on each side; is that
right?

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A. Yes, there are.

11

Q. And they are actually positioned
in the back part of this nursing station; am I
correct? In other words, they are not up here at
the counter, they are back into the body of the
nursing station?

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A. Because that is where the
professionals not the clerical staff work.

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Q. Sure, okay. And there are six
windows, right?

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A. Yes.

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Q. Three on each side. Now, quite
frankly, I was struck by the fact that these windows
and the issue being made of it is somewhat of a red
herring here, and I put my reasons to you to see if
you agree with that. First of all, these windows

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are what, about 16 inches by 20 inches or so?

A. I thought they were a little taller than that. Perhaps 16 is about the width.

Q. And as I recollect them, there is two panes of glass, and in between them a set of venetian blinds?

A. Yes.

Q. And the one pane of glass on the inside of those rooms has wire running through it that forms little squares?

A. I cannot remember whether it does or not.

Q. Well, the next time you are by, if you are, you could have a look, but I think you will find it does.

MS. SYMES: Her access has been restricted greatly since then.

MR. HUNT: Q. I am sure if you just speak to Mr. Roland he will let anybody in.

And you have then a series of little squares and the wire running through the interior, you have got a set of venetian blinds in the centre, then you have got a pane of glass outside by the nursing station.

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3 Q. Now, looking at it from my
4 point of view, I found that to look into those rooms
5 I had to pretty well go right up to the glass and
6 get within two or three inches of it in order to
7 see anything going on inside, and that is assuming
8 the venetian blinds are open. Would that be a fair
9 statement of how one has vision into the room
10 through those windows?

11 A. Yes, but I could add that I
12 was involved with working a little bit with the
13 people who designed the ward and we designed those
14 windows very purposefully so you could see into the
15 room and if I wanted to see into the room nothing
16 would obstruct my view. For one thing, the blind
17 is rarely closed but if it were closed, I had a
18 control button to open it.

19 Q. No question, if you wanted to
20 see in through those windows, you could do it?

21 A. Yes.

22 Q. Yes. Did you ever notice
23 that there was some reflection on that glass from
24 the outside from the lights in the nurses' station
25 that really caused you to have to get up a little
close to look through it?

A. Yes.



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Q. Yes. And then the other thing I noticed, and maybe you can give me your thoughts on this, but it seemed to me that the better view is from inside the ward room back out into the nursing station, particularly when the lights are down a little because the lighting is better out in the nursing station?

A. It sounds logical but I don't recall very often looking out.

Q. Well, perhaps it's been a while since you were there but as you point out it does seem logical, the better view is from the inside out rather than the outside in.

A. From a distance. If I'm looking from up close I can see in that room quite well.

THE COMMISSIONER: Would this be a good time?

MR. HUNT: This would be a good time, yes.

THE COMMISSIONER: All right, we will take twenty minutes then.

--- recess.

--- on resuming.

THE COMMISSIONER: Yes, Mr. Hunt.



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MR. HUNT: Yes, thank you.

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Q. Now, we were dealing with Ward 4A/4B and the physical setup of the ward before the break and another feature of the wards that I was struck by is really the wards themselves, while they are called Ward 4A and 4B they are really continuations of each other in the sense that they are all physically located very close together and there is no real dividing line or borderline between the two; it is just marking one hallway 4B and the other one 4A?

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A. Yes. As well as that we shared service rooms.

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Q. I see. So, there was a sharing of even the physical facilities between the two?

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A. Yes.

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Q. Well, I take it then it wasn't uncommon for nurses on 4A to be assisting in any one of a number of capacities with the nurses on 4B, either with respect to patient care or just with respect to facilities or other materials that were needed in order to carry out the patient care?

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A. No, but I guess I would say that when a nurse had her own patient assignment she



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H4 2 didn't have too much time to do anything with anyone
3 else's.

4 Q. No question, I am not
5 suggesting there was that kind of splitting of
6 responsibility but it wouldn't be unusual, for
7 example, for a nurse from one ward, 4A, to be
8 assigned a patient in 4B to look after when the
need arose for that sort of assistance?

9 A. No, it wouldn't be unusual.

10 Q. And really in addition to it
11 not being unusual it is quite an easy matter because
12 really the distance that separates, say, one of the
13 rooms on 4A from a room on 4B could only be a matter
of a few steps down the hall?

14 A. Yes, and that would be a
15 reason why only on adjacent wards could someone have
16 an assignment on both wards ever.

17 Q. I see. So, was this physical
18 setup unusual when compared to other ward setups
19 within the Hospital?

20 A. No, it wasn't -- yes, this
21 particular setup because it was newly designed but
22 the idea that adjacent wards were very close together
is not unusual.

23 Q. All right. And that was I
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suppose part of the reason behind that, to facilitate the ability of people on the wards to assist and give support to each other when the need arises?

A. I don't know when the original hospital was designed. When this ward was designed the decision was not made at that time whether this was going to be one ward or two wards.

Q. I see. Well, would you say that Susan Nelles and Phyllis Trayner were two of the more experienced nurses who worked on that ward?

A. That is so obvious an answer it is silly that as time went on they became more experienced. Neither of them had very much experience at the beginning of this period. Phyllis on 5A had been, as I am just estimating now, about a year and about a year in another hospital before that; Susan had less than a year on 5A and about a year in another hospital.

Q. I take it the fact that Phyllis was made a team leader on the ward is some indication that she was experienced enough to be able to handle those responsibilities?

A. Yes. Yes, she was, and I have no dispute with that but it also relates to who else was available.



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Q. At the time when she was made team leader you mean?

A. Yes, it does, but that is no dispute with why I made her team leader with full competence.

Q. And Susan felt that she was certainly capable of handling the role of team leader, I think you have already indicated that?

A. Yes.

Q. So, is it fair to say that the two of them were experienced enough to be put into that situation?

A. Yes.

Q. All right. If I could just refer a moment to the Altanta Report which is Exhibit 324. I don't think the witness needs a copy for this because the passage that I am interested in is very short and it is on page 28. If you have trouble following what I am reading just let me know and we will make a copy available but it is very brief.

It is in the first paragraph on that page, Mr. Commissioner. The authors of the report, by way of providing assistance, made some comments with respect to -- perhaps I should preface it. I



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assume you are aware what we are talking about when
we refer to the Atlanta Report?

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A. Yes, I am.

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Q. And you are aware of the
fact that in this report they rated the deaths based
on a number of criteria and there were some 29 of
the deaths that we are concerned with here that were
rated by them, if I can just put them into the
suspicious death category or even higher. But they
went on to make some comments about the perpetrator
of deliberate overdoses of digoxin if it was found
that the epidemic was a result of intentional acts
of some person.

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What they had to say was at page
28 in the first paragraph. I will read it to you
once completely first and then I will break it down.
They said:

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"The cause of the epidemic went
unrecognized for almost nine months,
suggesting that the perpetrator had
enough clinical knowledge to choose
victims whose deaths would not
initially be considered suspicious.
The perpetrator would also need to
have been a person who had unlimited



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access to patients over a nine-month period. Neither the presence of such a person in a patient room if observed nor the act of his/her handling an IV line during the nighttime hours would arouse suspicion."

So, essentially, what they have said is that given their findings, the person, if it is found that some or all of these deaths were the result of intentional acts, the person who did it first of all had to have enough clinical knowledge to choose a victim or victims that would not initially be considered suspicious.

Now, first of all, I think we can take it that children as sick as some of these children were are children that may well have been expected ^{to die} /at some point in time. So, we are dealing with a population of very sick infants to start with, would you agree with that?

A. Yes, I do.

Q. And they say then that the person:

"...had enough clinical knowledge to choose victims whose deaths would not initially be considered suspicious."



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So, would you agree with me then that that particular feature of the profile that this report paints really suggests that someone with some clinical experience, it is really prerequisite to have enough experience in dealing with children such as this in order to be able to select children that would not be considered suspicious at least initially?

A. Prerequisite of your hypothesis?

Q. Yes. Would you agree with that?

A. Yes.

Q. What I am suggesting to you then is that experienced nurses working on 4A and 4B would fit that profile, that feature of the profile?

A. I would have difficulty doing it myself with my experience; selecting I mean.

Q. My question -- well, all right then you have 30 years experience. You may have difficulty in bringing yourself to do the intentional act?

A. I changed that word to "selecting" though I think it would not be easy to do.



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H10 2 Q. Sure, sometime they might
3 select somebody who had a normal heart, an
4 anatomically normal heart, I suppose.

5 A. My knowledge for selection
6 would not be very sophisticated and I would think
7 that that would be the same for all of our staff.

8 Q. Well, you are not suggesting
9 that a nurse is less capable of making that selection
10 than somebody who is not connected with nursing
11 care, are you?

12 A. I think I am hesitant to
13 answer this but I want everybody to understand that
14 I am not suggesting it by saying this that I think
15 somebody is more likely but I do think that medical
16 staff have more knowledge than nurses. By that I am
17 not suggesting anything.

18 Q. All right. Well, we are
19 granting that the report only said:

20 "...enough clinical knowledge to
21 choose victims whose deaths would
22 not initially be considered
23 suspicious."

24 They weren't suggesting that the
25 person had to have enough knowledge to make the
perfect selection that would never be detected. So,



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H11 2 there is some room in there for, I suppose, a
3 selection which might at some point in time become
4 suspicious. Would you agree with me?

5 A. Yes.

6 Q. Well, would you agree then
7 with me that experienced nurses in cardiac care
8 would have the type of knowledge that would allow
9 them to at least make a selection that would not
initially be suspicious?

10 A. To a limited extent they
11 would have some knowledge along that line.

12 Q. All right. Well, we will go
13 on. They say:

14 "The perpetrator would also need to
15 have been a person who had unlimited
16 access to patients over a nine-
17 month period."

18 Again, I am suggesting to you that
19 a nurse working on 4A/4B in the context of the setup
20 that we have already gone through that existed both
21 physically and with respect to supportive care would
22 fit that prerequisite of the profile?

23 A. I'm sorry, I got a little
24 lost from the beginning to the end of that question.

25 Q. All right. I am suggesting to



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you that a nurse on 4A/4B, given the physical layout we see of the wards and given the arrangement that we have discussed whereby nurses from one may be assigned to work on the other ward, that nurses in 4A/4B have the unlimited access to patients that would fit that part of the profile?

A. Oh, I see, I was back on the last sentence. Yes, they do have.

Q. All right. Finally, they go on to say:

"Neither the presence of such a person in a patient room if observed nor the act of his/her handling an IV line during nighttime hours would arouse suspicion."

Again, I suggest to you that a nurse working on either 4A or 4B would fit that prerequisite of the profile?

A. To some extent but A would be very surprised to see a nurse from the other ward or even from another patient assignment working with the intravenous of a child on the assignment of another patient without some prior arrangement, like, she was relieving her.

Q. You might be surprised to see



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2 that if you were responsible for keeping track of
3 the detailed movements of the nurses on a particular
4 night but what I am suggesting to you is that given
5 the physical setup and the arrangement that we have
6 discussed with respect to shared care that the
7 presence of a nurse in a room handling an IV line
8 of itself is not going to arouse suspicion?

9 A. I guess I still have to
10 limit it. I think we spoke yesterday of the team
11 leader and of her responsibilities and that she
12 would be aware of what was needed by the patients,
13 what medications were due, who had intravenouses.
14 She would certainly be aware of the assignment and
15 who was responsible for the patient. So, unless she
16 knew that the nurse who was responsible for the
17 patient was at coffee or had collapsed or something
18 then, no, she wouldn't expect another person unless
19 the team leader to be involved with that intravenous.
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Q. Well, unless the person was at coffee, or in the washroom, or taking a break, or down the hall in the medicine cabinet, or talking to someone else, I mean there are a number of possibilities?

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A. Yes.

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Q. There are a number of possibilities that could present themselves that a nurse could easily be aware of that sort of a situation, would you agree?

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A. Yes.

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Q. So bearing that in mind, you would agree with me then I take it that a nurse on 4A or 4B would be able to fit that pre-requisite into the profile?

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A. Yes.

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Q. Will you deal for a moment with Phyllis Trayner. We were discussing before the break about the splitting up of the teams, and you mentioned that there was a feeling that no one wanted to work on the Trayner team, or go on to the Trayner team, that was the general feeling?

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A. Yes.

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Q. Well if the Trayner team was split up then really there would be no Trayner team,



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2 would there?

3 A. Well, somebody would have to ---

4 Q. Work with Phyllis Trayner?

5 A. No, that is not what I was
6 going to say. Somebody would have to fill that
7 block in the assignment so that patients were
8 covered during the period of time that that team
9 worked.

10 Q. You see the problem I am having,
11 and perhaps you can explain what the feeling was,
12 but if the Trayner team was disbanded then you would
13 no longer be plugging people into the Trayner team,
14 you would be reorganizing the team itself. What I
15 am suggesting to you is that the feeling was that
nobody wanted to really work with Phyllis Trayner.

16 A. No, I am sorry I don't
17 accept that.

18 Q. Well then can you tell me what
19 is meant by them not wanting to work on the "Trayner
team"?

20 A. I think they probably perceived
21 that we were not going to put each one of the members
22 of that team separately, but perhaps exchange one
23 or two so that the team as it existed would still
24 exist. I don't think we really went into the
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3 sophistication of deciding how many people we would
4 move, and I know we didn't go into looking at with
5 what team we would exchange, or where we would put
6 people on or off that team.

7 Q. If people were concerned about
8 being sort of plugged in too the remnants of
9 the Trayner team, I take it they were still
10 considering then the possibility of being plugged in
11 on a team that Phyllis Trayner was the leader of.

12 A. If they were assuming as you
13 seem to be that Phyllis was going to stay on that
14 team, she may have been the one moved, I don't know,
15 I told you we didn't make those plans.

16 Q. If she was the one moved then
17 there wouldn't be a team any more, would there?

18 A. She wasn't going to be removed
19 into oblivion, she would be with some team.

20 Q. And the people didn't want to
21 go on Trayner team.

22 A. I can't agree with what you
23 are saying.

24 Q. I'm not trying to force you to.

25 A. Okay.

Q. I am really trying to understand
it and really quite frankly I can't understand the



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feeling unless the feeling was they didn't want to work with Phyllis Trayner.

A. I do not agree with that statement. I think they did not want to work with the team on which all these deaths, on whose shift all these deaths were occurring, which you could call the Trayner team if you want to, and it probably is an easy name because she was the team leader. I don't think that they saw the deaths and the situation that frightened them being related to the fact that Phyllis Trayner was on the team, or the leader of the team.

Q. Well, if a new team had been set up headed by, we will call it Nurse Smith, would the people who didn't want to work on the Trayner team have been more agreeable to working on that team?

A. Are you pretending the whole Trayner team just disappeared, because they would still have to be some place, wouldn't they?

Q. That's right. They didn't want to work on the Trayner team is what you said, so I took it from that that they didn't want to work on any team whatever its constitution was that was going to be known as the Trayner team, and that



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suggests that they didn't want to work with Phyllis Trayner as the team leader.

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A. It doesn't suggest that to me.

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Q. All right.

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A. It means they didn't want to work with the team on whose shift frequently these deaths were occurring regardless of who those people were.

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Q. Up to that point it had been Phyllis Trayner's team's shift?

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A. Yes, and maybe we got you into this thinking by calling it Phyllis Trayner's team, but the reason that they didn't want to work on it was nothing to do with Phyllis, it was to do that this was the scary team because scary events were happening when this team was there.

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Q. So they didn't want to have anything to do with this team, the scary team, or whether scary events were happening.

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A. They didn't want to work on it, they were afraid to.

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Q. I see, okay.

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THE COMMISSIONER: Miss Costello, we have been using the term "Trayner team", is that not the way it would be referred to in the Hospital?

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THE WITNESS: It probably would.
I understood Mr. Hunt to being more specific to her.

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THE COMMISSIONER: I understand that,
but I thought maybe you had some doubt about the use
of the term.

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THE WITNESS: No, I just was trying
to derive that from him asking me about concern
working with her.

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THE COMMISSIONER: It is normal is
it not to refer to a team by the name of the team
leader?

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THE WITNESS: Yes.

MR. HUNT: Q. Miss Costello, I
put it to you that Phyllis Trayner was the sort of
person who liked attention.

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A. I think she sought reassurance
is the way I would word it, is that what you are
interpreting as "liked attention"?

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Q. No, I am suggesting to you
that she liked attention.

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A. I can't answer you because
I think only Phyllis could answer that.

THE COMMISSIONER: Only what?

THE WITNESS: Only Phyllis can
answer that.



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MR. HUNT: Q. From your observation of her you feel you can't answer that question whether or not she was the sort of person who liked or attracted attention?

A. I think I said before that she sought reassurance and that she was quite vocal and that she did this quite frequently and that got her attention. But I can't translate from that that the reason she did it was that she liked attention.

Q. She sought reassurance and she was quite vocal and she was quite open with her discussions about things and she was seeking reassurance with?

A. Yes.

Q. I think at one point you referred to her fussing about things.

A. Perhaps I have used that word.

Q. Well I suppose I was referring to your written statement which is Exhibit 309.

A. In my own handwriting?

Q. Yes.

A. Yes.

Q. I am looking at page 2, and you say:

"Some inter-personal problems it seems



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"people were concerned about Phyllis' behaviour, she got lots of attention as team leader of this team, she fussed openly."

Does that refresh your memory then?

A. Yes, it does, and I think I answered the lady, I am sorry, I have forgotten her name, this morning that.

Q. Miss Forster?

A. Pardon?

Q. Miss Forster?

A. Yes. I think what I meant by that was that the rest of them were saying we all need attention, we are all under stress, but because Phyllis is the most apparent person to be seeking support we are a little angry that they are not giving us as much support.

Q. That was - the other nurses I understand were concerned, some of them were concerned about all the attention that she was getting.

A. Well, they wanted some too.

Q. They wanted some too?

A. Yes.

Q. But that doesn't take away



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from the fact that Phyllis was getting the attention?

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A. No, it doesn't.

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Q. And she fussed openly about
things as you have said.

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A. Yes.

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Q. And I think you went on to
say:

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"She worried about the cause of arrests,
et cetera and was not easily consoled
by the cardiologists, et cetera."

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I take it from that that she was
quite vocal and open in her discussions with them
about these deaths?

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A. Yes, she was.

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Q. That were arising?

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A. Yes, she was, very much so.

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Q. And you go on to refer to an
incident where you once overheard Dr. Freedom trying
to reassure her that it was no fault of hers or
the nurses; and then later the same day you heard
Karen, is that Karen Power?

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A. Yes, Karen Power.

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Q. Karen's interpretation from
Phyllis that Dr. Freedom had blamed her for the death.
I take it you are referring to the same death?

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A. Yes, I heard that sort of
third hand.

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Q. That is correct, that is sort
of strange, isn't it?

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A. Yes.

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Q. That is the sort of thing, if
that is correct, that someone does really to get
some attention, isn't it?

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MS. FORSTER: Mr. Commissioner,
we hardly know what happened if this witness heard
it third hand, I don't think that is a proper
question.

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THE COMMISSIONER: This is what
she has written herself, and I suppose she has
to explain what she meant by what she wrote. She
may not be able to tell us much about what actually
happened, but at least she can tell us what she
wrote, I would think.

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THE WITNESS: I'm sorry, I forgot
the question.

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MR. HUNT: Q. I am saying if that
is accurate that what you heard, having heard your-
self Dr. Freedom telling her it wasn't her fault or
the nurses' fault, yet later the same day she's
telling the story to someone else and saying that



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Dr. Freedom blamed her for the death. Isn't that the sort of thing that somebody does to attract attention or sympathy?

A. Or is it a symptom of stress?

Q. It could be a symptom of a lot of things.

A. Of stress and anxiety and please reassure me.

Q. Getting some attention.

A. Specific attention, yes.

Q. Now, you mentioned in these notes as well:

"It seems people were concerned about Phyllis' behaviour."

Now, I take it from that that there were other examples that you may or may not have heard of her behaviour that concerned people enough that you became aware of the concern?

A. Is this in relation to my notes?

Q. Yes.

A. That Bertha told me?

Q. Yes.

THE COMMISSIONER: Do you have a copy of your notes here?



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THE WITNESS: I have my own copy,
yes.

4

THE COMMISSIONER: Yes, all right.

5

6

THE WITNESS: I think I tried to
explain this morning that this relates to Bertha's
feeling that ---

7

8

MR. HUNT: Q. Bertha's feelings
over on the next page and I am going to get to that.

9

10

A. Okay, get me to the right
place, please.

11

12

13

14

Q. Page 2, and it is just in that
paragraph where I was referring to your comments
about getting lots of attention as team leader,
just before that, about a little half the way down
the page you say:

15

16

17

"Some inter-personal problems it seems
people were concerned about Phyllis'
behaviour."

18

19

A. I think that relates to the
next sentence that you and I have just discussed.

20

21

Q. That she got lots of attention?

22

23

24

25

A. That they wanted some also.

Q. They wanted some also, so that
is suggesting that she was doing things perhaps
such as this other example we see to get attention,



1
2 or sympathy, and the others were concerned they were
3 not getting enough of that as well.

4 A. I am having a little difficulty
5 with the words of "attention" and "sympathy". I
6 think what she wanted was reassurance and support
7 and I think that is what the other staff also wanted.

8 Q. Well maybe ---

9 A. Well, maybe it is semantics.

10 Q. If we treat them as essentially
11 the same thing we can perhaps use them interchangeably
12 and we will avoid the problem.

13 A. I think what is wrong with me
14 is I have somewhere in my mind that a person who is
15 an attention seeker is a negative thing. I do not
16 see this seeking reassurance as a negative thing,
17 and maybe the translation is wrong anyway, maybe
18 there is nothing negative about it.

19 Q. Well, I don't want to get into
20 an argument with you, but if you are in Dr. Freedom's
21 shoes and you have tried to reassure a nurse that
22 it wasn't her fault, and then later she is telling
23 other people that you the doctor blamed her for it,
24 I mean that is pretty negative, isn't it?

25 A. Now I can't translate negative.
It probably confirms that she was not adequately



.14

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reassured, maybe she was so anxious she didn't hear him, I can't explain the reasons, she could I guess.

3

4

Q. It is pretty negative though.

5

A. What is negative? What do you mean by negative?

6

7

Q. I mean somebody going around saying somebody said that you did something that they didn't do in order to get some attention to yourself.

8

9

10

A. If you insist to interpret it that is why she was doing it.

11

12

Q. Well, let us use your word, in order to get sympathy for yourself.

13

14

A. No, that wasn't my word.

15

16

17

Q. In order to get reassurance for yourself you go around and say somebody did something that they didn't do, which may well, depending on what was said can border on slander. You know, it is a pretty negative thing I suggest to you if you participate in that sort of exercise to get reassurance.

18

19

20

21

A. I am still having difficulty because I am more inclined to interpret it as a sign of her anxiety, and you are more inclined to see it as her attention seeking or something.

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J/BN/ko

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Q. Well, people who are anxious and have anxiety do fairly negative things sometimes, you would agree with me?

A. Sometimes.

Q. Sure. So just because you are anxious or you have got anxiety and you do things to get reassured does not necessarily mean everything you do is positive?

A. I suppose what I am having difficulty then with is intent because I do not see it as --

Q. Pardon?

A. Perhaps what I am having difficulty with, then, is intent. I do not think it was intended to be negative.

Q. Well, you were pretty sympathetic, I suppose, when you got this report of her having blamed Dr. Freedom when you knew the opposite to be true and you looked at it as a sign of her own problem?

A. My first reaction was surprise and subsequent reaction was if that reassurance that I heard her given was not enough, she is very anxious.

Q. So your first reaction was surprise because that is pretty strange?



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2

A. Yes, it is.

3

Q. And your first reaction was

4

that whatever she got from Dr. Freedom by way of
reassurance was not enough?

5

A. Yes.

6

Q. So that suggests that whatever

7

motivated her to do this, to seek this further
reassurance, is something pretty serious, pretty
deep seated in order to cause her to go to that
length to get reassurance?

10

11

A. I do not feel very safe with
those words. I do not know whether it was or not.

12

13

Q. Well, at least we agree it was
pretty strange, it certainly surprised you and your
concern was over her anxiousness or what this
suggested about how she was feeling and thinking at
the time?

14

15

16

17

A. Yes.

18

Q. Now, then we have on the next

19

page, page 3, about the top quarter of the page in
October, and there is a question mark there; do you
see about four or five lines down?

20

21

A. Yes, I do.

22

Q. "In October while doing

23

Bertha's evaluation, Bertha expressed

24

25

J 2



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2

"concern and stress re working on
team parallel to Phyllis c/o ..."

3

4

Is that because of?

5

A. Yes.

6

7

8

9

Q. Because of Phyllis' behaviour
re arrests and her expectations of everyone at this
time. Now, is this something different, then, that
you became aware of at this point in time that was a
further expression of concern about her behaviour?

10

11

A. Yes, it was, and it was
specific.

12

13

14

Q. Pardon?

A. Yes, it was, and it was
specific. It was from a specific person about
specific behaviour.

15

16

17

18

Q. All right, and what was that?

A. The behaviour was that Phyllis
was inclined to take over the leadership role when
the cardiac arrests and deaths happened.

19

20

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Q. Yes?

A. And that Bertha expressed that
she was now doing this to the extent that the rest
of them felt dominated or a little bit -- that their
performance in that role would be judged by Phyllis
and not free to take full responsibility for their



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own role, and Bertha, as team leader of 4B, was speaking as well of some of these deaths that were happening on 4B, where she was questioning her own feelings. She would have liked to be in charge and feel very competent and confident that she was in charge during those situations, and Phyllis' behaviour was inhibiting her.

Q. So to break this down a little bit, this is in October?

A. Yes.

Q. Of 1980?

A. As I remember, it was.

Q. And Bertha Bell, she was not connected with Phyllis' team?

A. She was a team leader --

Q. But rather had her own team on 4B?

A. Which usually worked at the same time that Phyllis' team worked.

Q. And they worked parallel?

A. Yes.

Q. All right. So Bertha normally, I take it, would not be involved with Phyllis in connection with the same patients?

A. No, not formally.



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Q. All right, and Bertha was quite upset when you spoke to her in October because of the fact that Phyllis was, in connection with these cardiac arrests and resuscitation attempts, was taking a leadership role.

Now, first of all, she was a team leader; is that not appropriate to take the leadership role?

A. I think the issue with Bertha was that she also took the leadership role if the situation arose on 4B, which was where Bertha was the leader.

Q. I see. So it was not just in connection with cardiac arrests or resuscitation attempts on children in arrest with respect to her own team, but it was with respect to Bertha's team as well?

A. Yes.

Q. And normally that would not have been Phyllis' role, I take it?

A. No.

Q. That would have been Bertha's role?

A. Yes.

Q. You said that Bertha, I suppose, found that somewhat stressful?

A. Yes, she did.



J 6

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Q. And strange?

3

A. She did not use the word strange with me. I do not know.

4

5

Q. She was pretty upset about it?

6

A. Yes, she was.

7

8

Q. You have said that they felt dominated by Phyllis in connection with these cardiac arrests and resuscitation efforts?

9

10

11

12

A. I think that was a little interpretation I made of the last thing we just agreed on, that she was becoming the leader of the team during the resuscitation no matter which ward it was on.

13

14

Q. She was taking charge?

15

A. Yes.

16

17

Q. And that caused the others who normally would have been involved to feel that they were being dominated by her?

18

19

A. And to question their own self-confidence.

20

21

Q. Right, in an area where they normally would have been the ones responsible?

22

23

A. Yes.

24

25

Q. As you say, that caused them to question their own self-confidence and to fear that they were being judged, then, in some way by Phyllis?

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A. It never got to that level of

3

specificity.

4

Q. I see, all right. Well, in any

5

event, whether or not Bertha Bell used the word strange,

6

that was not the normal procedure that one would have

7

expected to have happened when a cardiac arrest or

8

resuscitation attempt was undertaken?

9

A. No.

10

Q. And it caused her considerable

stress?

11

A. Yes.

12

Q. Well, was Phyllis Trayner ever

13

spoken to about that, do you know?

14

A. I know that I spoke with Liz

15

Radojewski specifically. I know that both of us

16

discussed it with the two clinical specialists on

17

the ward, and I know that Liz Radojewski accepted

18

the responsibility to deal with this with Phyllis.

She was her superior.

19

Q. Do you know whether she did?

20

A. Yes, she did.

21

Q. Did you yourself ever partici-

pate in any discussion with Phyllis about it?

22

A. No, I did not.

23

Q. Now, you have said that you never

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really thought of foul play at all in this piece,
let us put a date up until March 22nd, or you got
back on March 23rd?

4

A. The 23rd, to the hospital.

5

6

Q. Up until that point in time
you have indicated you never considered foul play?

7

A. No, I did not.

8

9

10

11

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Q. And you have referred on a
number of occasions to other experiences certainly
less dramatic than this where people had the bad luck
to be there for a number of deaths and this caused
stress?

13

A. Yes.

14

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Q. I take it right up until that
point in time in March you were still feeling that
way? In other words, what was going on here was
unprecedented, but the stress was created by simply
the misfortune of being there when all this was
happening?

19

20

21

A. Yes, I would have considered
myself incompetent if I had had any other thoughts
and not done something about it.

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Q. All right. Well, I want to
examine with you for a moment some of the facts that
we know, we have heard evidence about these deaths,



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in the context of this sort of nine month period where there was no thought given to foul play and it was really more a feeling of bad luck or misfortune that this particular team was experiencing this number of deaths.

Now, in terms of the facts that we have, and I am going to refer to the Atlanta Report, but I do not think it is necessary for you to have it, but as I indicated to you before, the authors of this report, after their study, concluded that 29 of the deaths that we are concerned with here were, to use a phrase that can cover them all, I think, without any problem, suspicious deaths?

A. Yes.

Q. These were their category A and category B deaths that they refer to in the report. Now, we know from evidence that we have heard that of these deaths Phyllis Trayner was on duty either at the time of death or in the four hours immediately preceding death, that is for all of them, and that Susan Nelles was there for 21?

A. I am aware that has been said, yes.

Q. We also, on the evidence before us, know that 28 of these 29 suspicious deaths occur



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during the long night shift. By that I mean either the death takes place on the long night shift or the terminal event begins before the end of the long night shift and the baby dies shortly after the day shift comes on. So that is 28 of the 29, we will say, are associated with the long night shift, and the other one is a death on the day shift in the late afternoon, and we will deal with that one separately.

THE COMMISSIONER: I am just getting a little worried about this figure 29. I was looking through. Where do you get the 29 as opposed to the 28?

MR. HUNT: If I just add up the columns under Tab 3 in your report, at the very front, if we are looking at the same one.

THE COMMISSIONER: Tab 3, yes, all right.

MR. HUNT: In columns A and B, right here, the very last couple of pages. Now, if I count those up I get 29.

MS. SYMES: I am sorry, Mr. Hunt, what page are you on, please?

MR. HUNT: Well, it is in Tab 3 at the front of Exhibit 324, and it is the very last page of Tab 3 right before the Index 4.



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J 11

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THE COMMISSIONER: You are counting
up groups A and B and you get 29?

4

MR. HUNT: 29.

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6

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MR. LAMEK: I think, Mr. Commissioner,
that is because the Atlanta group included the child
Gittens who we have excluded. The child died in the
ICU, as I understand it.

8

9

THE COMMISSIONER: Gittens was a
group C anyway, was he not?

10

11

MR. HUNT: Yes, Gittens is not in
A and B.

12

THE COMMISSIONER: No, he is in C.

13

14

MR. HUNT: The only change to A and
B, as far as I know, is in the last one in the B
column, 02019, that is the wrong name --

15

16

THE COMMISSIONER: That should be
Gage, am I right?

17

18

19

MR. HUNT: -- and that should be Gage,
but if you put that in and you count them up, there
is still 29.

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22

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THE COMMISSIONER: Well, probably the
answer to it is that somewhere along the line they
used 28 excluding Woodcock, and now they have put
Woodcock in because Woodcock was not officially in
the epidemic period. Yes, I think that must be the



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answer. They said 28 but they really meant 29 if we
include Woodcock; is that right?

3

4

MR. LAMEK: 29 including Woodcock,
that is right.

5

6

MR. HUNT: I think so, because
Woodcock was --

7

8

THE COMMISSIONER: And that is 10 and
19, 19 As and 10 Bs.

9

10

MR. OLAH: Perhaps the best way,
Mr. Commissioner, is at page 42, the categories are
broken down and numbers are given, and Woodcock is
excluded, and that does come to 29.

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12

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THE COMMISSIONER: Page 42?

14

MR. OLAH: Page 42, Table 9, sir,
you will see that in Table 9 you have the numbers
for category A deaths and B deaths, summarizing them.

15

16

THE COMMISSIONER: Yes. Probably that
is one of the places where I got the 18, but it is
19 if we include Woodcock.

17

18

19

MR. OLAH: Precisely, and so that
comes to 29.

20

21

THE COMMISSIONER: Yes, all right.

22

MR. HUNT: Q. Now, I am putting
before you Exhibit No. 335. I think you will
recognize those as the sheets referred to as the

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WIN sheets relating to 4A and 4B?

3

A. Yes.

4

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Q. Now, what I want to do, and it will not take us long and we will finish it up before the lunch break, Mr. Commissioner, is just examine these night shifts.

7

A. I only have 4A's.

8

9

Q. I am sorry, that is the one I want to deal with, okay, just 4A's.

10

A. All right.

11

12

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14

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Q. And I am just going to restrict myself to the night shift, and I want to take a look at the number of night shifts worked by the parties that we are referring to, Nelles and Trayner, during the epidemic period. Now, that is a period that was nine months, right?

16

A. Yes.

17

18

19

MS. SYMES: Excuse me, Mr. Hunt, if you are going to stand there would you speak into the microphone, please?

20

MR. HUNT: I am sorry.

21

22

23

Q. That was a period of nine months, and that, I have been advised, is 266 days or nights, if you will, in that period. Now, nurses did not --

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25

THE COMMISSIONER: I am sorry, I am



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J 14

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just going to ask, this is from the 1st of July, is
it?

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4

MR. HUNT: This is from June 29th.

5

THE COMMISSIONER: June 29th to March

22nd?

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MR. HUNT: To March 22nd.

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THE COMMISSIONER: How many was this?

MR. HUNT: Yes, 266 nights.

Q. Now, the long night shift is 12 hours, is that right?

A. Yes.

Q. So that we are not dealing with a situation where nurses were working the long night shift five nights a week.

A. It is possible but not five consecutive nights.

Q. No, because the 12 hours would quickly accumulate into a weekly total.

A. Therefore they seldom worked more than three, very rarely worked more than three.

Q. All right, that is what we are going to look at. So, when we look at the number of nights that were worked in this particular period of time we can see that it is certainly less than if someone was working five nights a week on the night shift for the whole period of time?

A. Well, if you take it over a two week period.

Q. All right. Well, we are going to do that.

A. Yes, all right.



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K2 Q. So I think what you are saying will become clear. Now, what I want to do is, with your help so I don't misinterpret anything, I want to make three columns on this piece of paper on the board. The columns are going to be: Phyllis Trayner alone, Susan Nelles alone and Phyllis Trayner and Susan Nelles and when we go through those sheets I want you to tell me on which nights in a given week each nurse worked either alone or together and at the end of it we will see how many nights we are dealing with in the whole period. All right?

A. Yes.

Q. Okay, let's start with ---

MS. SYMES: Mr. Hunt, perhaps, could you assist me if you have already done these calculations, could Ms. Costello simply check them over the lunch hour rather than spending the time going through 266 shifts.

MR. HUNT: No, I don't think it will take as long as my friend expects, Mr. Commissioner. I think we can go through this relatively quickly because it is all quite well marked and there are a couple of questions where I am not exactly sure whether they worked or not.

So, we will use the starting point of



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the night of June 29th; that is Sunday, June 29th because Baby Woodcock died in the early morning hours of Monday, June 30th. So, on that particular night I take it that is the first sheet. Can you tell me who worked just in terms of Phyllis Trayner and Susan Nelles?

A. Both.

Q. All right. They worked together?

A. Yes.

Q. Perhaps if I could explain. I will take out the word "alone" and what I want to have at the end of it is a - I'm not concerned with the nights they worked alone, I want to have a total of the nights that each worked and a total of the nights that each worked together. All right.

A. Well, somehow if you add that across you are going to get three nights and one night.

Q. No, I'm not going to add it across.

A. All right.

Q. Okay. I'm going to take this off, all right?

A. Okay.



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Q. Do you see what I'm interested in? I'm interested in knowing what nights they worked, each of them, how many, and how many nights they worked together.

A. All right.

Q. All right, the week of June 30th to July 6th.

A. Mrs. Trayner didn't work at all, Susan Nelles worked...

Q. How many nights?

A. Two.

Q. Two nights. All right, the next week, the week of July 7th.

THE COMMISSIONER: I'm sorry, how are you doing that, you put two.

MR. HUNT: Yes, I'm going to make little boxes of five.

THE COMMISSIONER: Yes, all right, thank you.

THE WITNESS: And we are talking only about night shift?

MR. HUNT: Q. Yes, we are only talking about the night shift.

A. All right.

Q. So, the next week of July the



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7th to the 13th.

3

A. Phyllis worked three, Nelles

4

worked three, Nelles worked two and not at the same

5

time.

6

Q. They didn't work any together?

7

A. No.

8

Q. Phyllis worked three and

9

Susan worked two and none at the same time. Now,
the week of July 14th to the 20th.

10

A. Neither worked any nights.

11

Q. All right, the week of the

12

21st to the 27th.

13

A. Phyllis worked five. Susan

14

worked the same five but during one of those she
was on another ward.

15

Q. All right. But she was there

16

that night?

17

A. Not on 4A/B.

18

Q. She was on 4C?

19

A. Yes, 4C.

20

Q. All right. Well, we won't

21

count that one then. So, that is five for Phyllis,
four for Susan and they worked together on four of
them.

22

23

A. Yes.

24

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Q. Okay. The week of July 28th.

3

A. They worked together for two.

4

MR. ROLAND: I don't want to confuse

5

that too much but I think Mr. Hunt has added one

6

extra one to the Trayner/Nelles column.

7

THE COMMISSIONER: What was he

8

supposed to be doing?

9

MR. ROLAND: He should have put

10

four and he put five on the work together.

11

MR. HUNT: Over here?

12

MR. ROLAND: Yes, you put one

extra there.

13

MR. HUNT: All right. Well, we

14

will have a credit.

15

THE COMMISSIONER: That I take it

16

was on the together column, is that correct?

17

MR. ROLAND: Yes.

18

MR. HUNT: So, we won't add the

next one, Mr. Commissioner.

19

THE COMMISSIONER: All right.

20

MR. HUNT: Q. The week of the

21

4th to the 10th of August.

22

A. Neither worked any nights.

23

Q. All right, the week of the

11th to the 17th?

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A. Susan worked one night, Phyllis
worked none.

4

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Q. The week of the 18th to the
24th?

6

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A. Phyllis worked four, Susan
worked one and the one that she did work was with
Phyllis.

9

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THE COMMISSIONER: And you don't
add it.

11

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MR. HUNT: Okay, we are now even.

13

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THE COMMISSIONER: Yes, that's right.

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MR. HUNT: Q. The week of the

25th to the 31st?

17

18

A. Neither worked any nights.

19

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Q. The week of the 1st to the

7th of September?

21

22

A. Neither worked any nights.

Q. The week of the 8th to the

14th of September?

23

24

25

A. Neither worked nights.

Q. The week of the 15th to the

21st of September?

A. Phyllis worked none, Susan
worked five.

Q. The week of the 22nd to the 28th?



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A. They worked two together.

4

Q. The week of the 29th to the

5th?

5

A. Neither worked any nights.

6

Q. The week of the 6th to the

7

12th of October?

8

A. Neither worked nights.

9

Q. The week of the 13th to the

19th?

10

A. They worked together on two,

11

plus that Susan worked one more.

12

Q. All right. So, Phyllis

13

worked two and Susan worked three?

14

A. Yes.

15

Q. All right, the week of the

16

20th to the 26th?

17

A. Phyllis didn't work any nights,

Susan worked three.

18

THE COMMISSIONER: Two?

19

THE WITNESS: Susan Nelles worked

20

three.

21

THE COMMISSIONER: I'm sorry, three.

22

MR. HUNT: Three.

23

Q. The week of the 27th to the

24

2nd of November?

25



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A. Neither worked nights.

3

Q. The 3rd to the 9th of November?

4

A. Neither worked nights.

5

Q. 10th to the 16th of November?

6

A. They worked three together

7

and Trayner worked two dependently.

8

Q. So, Phyllis worked five and

9

Susan three?

10

A. Yes.

11

Q. Three were together?

12

A. Yes.

13

Q. All right. The 17th to the

23rd?

14

A. Trayner worked none, Susan

15

worked two.

16

Q. The week of the 24th to the

17

30th of November?

A. Neither worked nights.

18

Q. Week of the 1st of December

19

to the 7th?

20

A. Neither worked nights.

21

Q. Week of the 8th of December

22

to the 14th?

A. Phyllis worked five, Susan

23

worked two; of those two they worked together.

24

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THE COMMISSIONER: They were
together you said?

4

THE WITNESS: For two.

5

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THE COMMISSIONER: Yes. That's the
two, all right.

7

8

MR. HUNT: Q.. All right. The week
of the 15th to the 21st?

9

10

11

A. They worked two together. I'm
not awfully sure in my copy of this whether Susan
worked two or three, I don't know if that is the
night or a cross-out night or what it is.

12

13

Q. It looks like a crossed out
night.

14

15

MS. CRONK: It is three if you add
the hours.

16

17

MR. HUNT: Well, if you add the
hours it is three.

18

19

Q.. So, we will say Susan worked
three and Phyllis worked two and two were together?

20

21

A. Yes.

22

23

24

25

Q. All right. And then on the
week of the 22nd to the 28th?

A. We didn't skip a week, did we?

Q. No.

A. No we didn't, I'm sorry, I



Costello, cr.ex.
(Hunt)

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think I have a double page here. 22nd to the 28th
Phyllis worked two independently and Susan worked
two independently.

Q. All right. Now, December 29th
to January 4th?

A. Phyllis worked none, Susan
worked one.

Q. January 5th to the 11th?

A. Phyllis worked four, Susan
worked none.

Q. The week of the 12th to the
18th?

A. They both worked two together.

Q. The week of the 19th to
January 25th?

A. Neither worked nights.

Q. The week of January 26th?

A. Neither worked nights.

Q. February 2nd to February 8th?

A. Phyllis worked two with Susan
and Susan worked those two plus three more without
Phyllis.

Q. So, Phyllis worked two,
Susan worked five and two were together?

A. Yes, two were together.



Costello, cr.ex.
(Hunt)

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Q. All right. Now comes the week of the 9th the 15th.

A. They worked two together.

Q. And the next week is the 16th to the 22nd.

A. Neither worked nights.

Q. Neither worked nights. The 23rd to March 1st?

A. Neither worked nights.

Q. March 2nd to March 8th?

A. They worked three nights together.

Q. The week of March 9th to March 15th?

A. They worked two together.

Q. The week of March 16th to March 22nd?

A. Phyllis worked five, Susan worked three and those three they were together.

Q. All right. On that last one, Sunday, March 22nd, did they actually not work that night or Sunday night?

A. No, I think these letters are absent.

Q. That was after Justin Cook's



1
2 death and I think the team was given some time off
3 then?

4 A. Yes, I think this is absent but
5 it is not clear.

6 Q. So, what do we have then?
7 We have four for Phyllis, two for Susan and two
8 together?

9 A. Yes.

10 Q. Two for Susan and two together.
11 All right, that takes us up to the end of the
12 epidemic period.

13 All right, Ms. Costello, if my
14 addition is correct, and I have been watched by a
15 number of people, so, any mistakes I would have
16 hoped to have turned up. In the whole epidemic
17 period from June 29th through to March 22nd Phyllis
18 Trayner worked only 52 nights.

19 A. Yes.

20 Q. And on those 52 nights 28
21 babies died or began their terminal events and died
22 shortly after the morning shift came off.

23 A. To agree to that I would have
24 to assume that you know those were on those nights.

25 Q. Yes, that's the evidence we
have.



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3 THE COMMISSIONER: Well, I think it
4 is 29.

5 MR. HUNT: No, there is one that
6 died in the afternoon. We are going to look at him
7 in a moment.

8 THE COMMISSIONER: Yes, all right.

9 MR. HUNT: Q. Susan Nelles in the
10 whole period of time worked only 55 nights.

11 A. Yes.

12 Q. And on those 55 nights there
13 were 21 of the 29 suspicious deaths?

14 A. I have no data to agree or
15 disagree.

16 Q. All right. Susan Nelles and
17 Phyllis Trayner worked together only 32 nights in
18 the whole period and on those 32 nights there were
19 21 of the 29 suspicious deaths, and that is evidence
20 we have.

21 Now, I put it to you that as far as
22 Phyllis Trayner is concerned to work 52 nights in
23 a nine-month period and have 28 of the 29 suspicious
24 deaths occur is more than bad luck.
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A. I have not got any expert
opinion on that.

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Q. Have you ever seen that kind
of bad luck in all of the experience you have had of
a nurse working 52 nights in a nine-month period and
having 28 deaths?

5

6

7

A. It seems unusual, I have never
encountered other situations.

8

9

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12

Q. And Susan Nelles worked
55 as has been mentioned and 21 deaths occurred on
those 55 nights, and again I suggest to you that
you have never come across anything that bears any
resemblance to that?

13

14

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17

A. Not consciously.

18

19

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Q. And on nights they worked
together, which were only 32, 21 children died, and
again I suggest there is nothing that has ever in
your experience compared to that?

A. It seems unusual.

MS. CRONK: Excuse me, Mr.
Commissioner, it may be the day and then again it
may be this particular lawyer. Can Mr. Hunt assist
me now as to how it necessarily follows that on the
32 nights that they worked together there were 21
deaths?



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MR. HUNT: Well, Susan Nelles was on for 21 of the 29 suspicious deaths, and Phyllis was on for all of them.

4

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MR. LAMEK: Some occurred on the other 22 days.

6

7

THE COMMISSIONER: They may not have occurred -- you may be right, but they may not have occurred on those days.

8

9

10

MR. HUNT: We just looked at the night shift and all that represents on night shifts. We know that 28 deaths occurred at night.

11

12

THE COMMISSIONER: Yes, but we don't know that they all, the 28 deaths you tell me that are suspicious excluding the ones that took place --

13

14

15

MR. HUNT: I see what you say. You don't know whether some portion of the 21 that she was on for occurred at night, occurred in the daytime as opposed to at night.

16

17

18

THE COMMISSIONER: Well, it is really the 32 I don't understand, and I think that is Ms. Cronk's point. I don't quite understand why it follows. It may be, it is conceivable.

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MR. HUNT: This is how it follows. If all of the deaths that Susan Nelles was on for occurred at night --

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THE COMMISSIONER: Yes.

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MR. HUNT: -- then that is entirely

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accurate.

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MR. LAMEK: No.

6

THE COMMISSIONER: No, because --

7

MS. CRONK: She may have been on
duty with Mrs. Trayner when a death did not occur.

8

Just to help my friend Mr. Hunt it is abundantly

9

clear the numbers in the first two propositions are

10

correct.

11

THE COMMISSIONER: Yes.

12

MS. CRONK: I am suggesting the third
may not. Maybe he would like to check on that.

13

14

MR. HUNT: Maybe what we can do is
look at the third one over the lunch hour.

15

16

Q. Before we do that, I just
want to go back to the one death of the 29 that did

17

not occur on the night shift, or was not associated

18

with it, and we haven't looked at that. That was

19

Baby Adamo who died in the afternoon on the 19th of

20

October and our information is he died ~~on~~ the 19th of

21

October; at 4:15 he began the onset of his terminal

22

events and at 5:43 in the afternoon he died, and that
is the last one that we have not accounted for.

23

Could you go to the week that covers

24

25



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the 19th of October. Can you find that one?

3

A. Yes.

4

5

Q. Can you tell me what shifts
the two nurses were that day. He died in the late
afternoon.

6

7

A. Mrs. Trayner worked the
long day shift and Miss Nelles worked long night shift.

8

9

Q. So he died on a day when Mrs.
Trayner was working the day shift?

10

A. Yes.

11

12

13

14

Q. And I guess if you are looking
for bad luck that is about as bad luck as you are
going to get? We will look at that other one over
the lunch hour, Mr. Commissioner, and straighten it
out.

15

16

THE COMMISSIONER: Yes, all right.
Until 2:30.

17

--- luncheon recess at 1:05 p.m.

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/DM/ak

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--- Upon resuming at 2:30 p.m.

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THE COMMISSIONER: Yes, Mr. Hunt. *W.*

5

MR. HUNT: Thank you, Mr. Commissioner.

6

We have sorted this out and I am right, and I am not asking for any apologies from my friends.

7

MS. CRONK: May I be heard in reply, sir.

8

9

MR. HUNT: Now, I will explain why.

10

What I didn't say, the fact I didn't give what I should have was that all of the deaths that Susan

11

Nelles was on duty for, which are 22 out of the

12

29, occurred at night. So that inasmuch as we have

13

our night shift up there and Nurse Trayner was there

14

for all of the 28 that occurred at night, on those

15

32 nights that we have seen there 22 of the deaths occurred.

16

17

THE COMMISSIONER: I had the figure as 21.

18

19

MR. HUNT: I think we have to add Woodcock in.

20

THE COMMISSIONER: Pardon?

21

MR. HUNT: I think we have to add

22

Woodcock in.

23

THE COMMISSIONER: If we add

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Woodcock it becomes 22, does it; and is it 29 it becomes

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3 MR. HUNT: It stays 29, that is
4 what we are dealing with, 29.

5 THE COMMISSIONER: What are the
6 number of deaths when Phyllis Trayner was on duty,
7 29? And it is 22 for Susan Nelles, and is it 22
8 when they are both on duty? I will take your word
9 for it, you are not fighting this any more,
10 Miss Cronk?

11 MS. CRONK: No, sir.

12 THE COMMISSIONER: But you didn't
13 have to be right.

14 MR. HUNT: If I made the statement
15 on the premise that they all occurred at night it
16 would have been unimpeachable.

17 THE COMMISSIONER: All right.

18 MR. HUNT: I concede it was a little
19 confusing.

20 THE COMMISSIONER: Yes, Mr. Olah?

21 MR. OLAH: I don't want my friend
22 to be too confident, I don't think Woodcock can be
23 classified as a night death, the arrest occurred at
24 9:03 and he died at 9:40.

25 MR. HUNT: We are talking night
associated deaths, I made it clear that what we were
talking about was where the onset of the terminal



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events began at night and the death may occur shortly after the commencement of the day shift, that was part of it.

THE COMMISSIONER: Yes, all right.

MR. HUNT: Q. The only other thing I wanted to refer to before I leave this is Belanger. Baby Belanger, who died at 8:16 p.m., which is in fact a death on the long night shift but whose terminal events began at 7 o'clock, which is part of the day shift.

If I can ask, do you have Exhibit 335 there, Miss Costello, I think it was left there.

A. What does it look like?

Q. It is the WIN sheets.

A. Oh, yes, I do.

THE COMMISSIONER: The WIN sheets for 4A?

MR. HUNT: Yes.

Q. If Baby Belanger died on December 28th, if I can just ask you to go to the sheets for December the 28th, the week of December 22nd to the 28th, and as I said his terminal events began at 7 o'clock on the long day shift and he died at 8:16 on the long night shift; just to complete this picture, can you tell me what shift Phyllis



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Trayner was working that day, the 28th?

3

A. Long day.

4

Q. And Susan Nelles?

5

A. Long night.

6

Q. And again if you are looking

7

for bad luck you couldn't find much worse than that.

8

Now the purpose of all of this I

9

suggest to you really is - to have 28 deaths over a
period of 52 nights that Phyllis Trayner was on;

10

and 55 that Susan Nelles was on, is to say the least

11

I suggest startling.

12

MR. BROWN: Mr. Commissioner, I

13

believe she was present for 21.

14

MR. HUNT: Quite so, quite so, 22

15

including Woodcock,

16

Q. We have 28 deaths in 52 nights

17

for Phyllis Trayner and 22 in 55 nights for Susan

18

Nelles, I say to you that at the very least is
startling?

19

A. Yes.

20

Q. And one of the features of

21

these deaths that was causing concern was the fact

22

that they were dying at night, they were occurring

23

at night.

24

A. What is that assumption based on?

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Q. Well, you have told us that people were concerned, the great concern and stress was caused by the increase in the number of deaths, the fact they were in the presence of one team and the fact they were occurring at night.

A. Yes.

Q. Would you agree with me that this ratio of death to actual nights work is a startling one, and I suggest to you that in light of that how can one look at those events and view them as a run of bad luck that in any way compares to anything that you have seen in your career?

A. At the time when I was working with these people I did not look at it like this at all. I have seen some publicity and heard evidence about it since, but we certainly did not have any data like this at the time.

Q. Now Carol Browne has given us certain information about her assessment of this situation, which I want to summarize for you and put to you to see whether you share her assessment of it. She indicated to us that she told the police --

MS. SYMES: Could you please give us the volume number?

MR. HUNT: Volume 85, page 8472



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through to 8483.

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Q. I am making specific reference to the individual portions, but firstly beginning at 8472 she told them that first of all she could not accept the idea that all of these deaths were from natural causes. Now, do you agree with that assessment of Carol Browne's?

A. No.

Q. You disagree?

A. From my personal knowledge of anything to the contrary, yes, I disagree.

Q. So contrary to Carol Browne you accept the deaths were all from natural causes?

A. I don't know whether they were or not but I have nothing to make me believe they were not.

Q. She also told the police, and I am referring to 8476-77 and following, that she was concerned about the possibility of an unbalanced person walking around on 4A and 4B, and why she was not noticed, and she put some of the blame on herself for not noticing the odd goings on. Do you share that concern and observation with Carol Browne?

A. Can you give me the context of time that Carol was talking about?



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Q. She is talking to the police
after the events of March 22nd and I think the date
was ---

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A. I don't need the exact date,
that's all right.

7

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Q. It was after the events of
March 22nd.

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A. After that, and after I became
aware that this was considered to be a possibility,
of course I worried about that and never stopped
worrying that I may have missed something in that way. But
prior to the arrest of Susan Nelles or a day or a
couple of days before that I did not think in that
light.

15

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17

18

Q. And she also told the police,
and again this is after the arrest, she had difficulty
accepting it and this is the deaths, that she didn't
feel were from natural causes could be through other
than nursing.

19

20

A. That is what I hear from the
press.

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Q. Do you share that observation?
A. Thi is what I hear from the
press, what I hear from the Atlanta Report. I have
nothing to make myself sure of that except that it



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was bad luck again, but nurses are the ones that are there most of the time in the 24 hours.

Q. Do you share her difficulties that she has expressed that she had accepting it could happen through other than nursing?

A. With everything I have heard I have to think that is the way most people think, and personally I have to think that nurses are the ones who are there but I am not sure that that leads me to be sure it has to be them. I can see it is unlikely that a stranger would walk in and not be noticed, yes.

Q. So you discount the possibility of a stranger only?

A. Well, - or a consistent non-stranger.



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Q. I will tell you why she had that difficulty and see if that assists you. I am looking at pages 8484 and 8485. After indicating that she had difficulty accepting that it could have happened through other than nursing, she eliminated strangers, as you did, as being even something to consider, and she was then asked at the bottom of page 8484:

"Q. And my question is this; with respect to the medical staff was there some reason why as between doctors and nurses you had trouble accepting that it was other than nurses?"

"A. A good number of the children noted in the time period were under constant nursing care so the nurse would be there all the time. So that if a doctor were to come and go that would be known to the nursing staff."

Based on that, she felt that she could eliminate the other medical staff from these concerns, and that gave rise to the difficulties she had accepting that it could be through other than the nursing.

My question to you is, do you share



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2 that observation?

3 A. Partially, and I think I am
4 perhaps thinking too broad, but I can narrow myself
5 to that because I am thinking that I do not know that
6 the person who could have administered digoxin, for
7 example, had to be there for very long or had to be
8 alone. I do not know that. Excluding that, yes, it
is unlikely.

9 Q. Excluding that, yes, you
10 would agree with her observation?

11 A. Yes.

12 Q. Now, I would like to move
13 to June 17th of 1982, which was --

14 MR. BROWN: Mr. Commissioner, Mr.
15 Hunt has quite candidly advised me that in this area
16 he intends to deal fully with the matters that were
17 raised before you Monday in camera. In view of that,
18 I would request that I be able to make some comments
to you this time.

19 THE COMMISSIONER: Yes.

20 MR. BROWN: The matter was dis-
21 cussed before you on Monday, you are aware of --

22 THE COMMISSIONER: I am aware of what
23 the problem was, and I think I am aware of what is
24 about to take place. This has something to do with
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not telling the police about certain suspicions she might have; is that right?

MR. BROWN: Well, I think one has to be careful. There may be a number of elements. There is, I think, perhaps some dispute over a statement regarding the acknowledgement that something was going on at a certain time. But there is also another matter in terms of her belief one evening, which she subsequently communicated to Mrs. Radojewski, which I think is a different statement.

The submission that I would make is that we have argued it back and forth before you, and one of the concerns that was raised was the foundation for that belief, and yesterday during her examination by Ms. Cronk, Ms. Cronk reviewed that area in great detail, and I would submit that the end result was that the belief was founded upon the meeting that she had with Sgt. Warr Monday afternoon and it was only as a result of the seed, so to speak, planted at that --

THE COMMISSIONER: That was why she was -- if she had any belief as to whether the children had been killed or not, that was based upon what Sgt. Warr said. What I think Mr. Hunt is getting at, please correct me if I am wrong, is her



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BB4 2 suspicions of a certain person, is that not right --
3 MR. HUNT: That is correct.
4 THE COMMISSIONER: -- were not
5 communicated?
6 MR. HUNT: That is correct.
7 THE COMMISSIONER: So, I do not
8 see how I can keep that out.
9 MR. BROWN: Well, I would submit
10 this. Mr. Hunt --
11 THE COMMISSIONER: This is Stage 2
12 we are talking about now, you know.
13 MR. BROWN: Yes. Mr. Hunt has
14 explained the problem to me. But Miss Costello has
15 already, in her evidence, indicated that she spoke to
16 Sgt. Warr Monday afternoon at the meeting.
17 THE COMMISSIONER: That is right.
18 MR. BROWN: She also had some
19 communication with him around four or five o'clock
20 that afternoon, but I think it was of a relatively
21 minor nature. If I recall, there was no subsequent
22 communication prior to the arrest of Susan Nelles
23 and although there were some incidental communications
24 thereafter in regard to arranging personnel for
25 interviews, there was no formal interview of Miss
Costello until after the discharge on June 17th.



BB5

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2 Now, I think Mr. Hunt's concern is,
3 well, had she made a statement to the police perhaps
4 prior to the arrest, that that would be of interest
5 to him. The facts are she did not, and she did not
6 communicate that to the police until after. What
7 she could have communicated to the police prior to
8 the arrest, I submit could only be founded upon a
9 belief she formed as a result of the meeting she had
10 with Sgt. Warr.

11 THE COMMISSIONER: Well, I think
12 that is unlikely, at least as to identity that is
13 unlikely, because presumably the police had no such
14 suspicions at the time.

15 MR. BROWN: Well, I would suggest
16 that the suspicions planted in her mind were as a result
17 of the exercise of reviewing the assignment books in
18 respect of the deaths of four children and the
19 personnel present at those times, and I believe she
20 also suggested that there were mutterings of a
21 pattern and also the fact that Sgt. Warr identified
22 himself as a Homicide officer, which I recall she
23 said was shocking and it was sort of the first time
24 she was aware of that.

25 I would submit that putting those
three elements together were the only basis upon which



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she formed the belief, so that therefore the belief
that she would --

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THE COMMISSIONER: It is not her
having the belief, it is her failure to -- I think
this is what this cross-examination is going to, her
failure to communicate that belief.

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MR. BROWN: That is true. I am
suggesting, though, that the weight of her belief
is minimal because she only based it on information
known to the police. There was an argument before
you on Monday that that would have to be weighed
against the potential effects of that evidence, and I
would submit that under those circumstances, the
scales would favour not going into the area.

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This really has nothing to do with
the cause of death.



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MR. BROWN: No, I agree. Mr. Hunt's approach is on an entirely different basis. I would simply submit that it is a balancing exercise that the formation of the belief was prompted only by the meeting with the police officer and what went on at that meeting, so that therefore, although it might be of interest to find out what her belief was and why did she not say something, the police had the same information, and in view of the mutterings of patterns and whatnot that struck a chord in Miss Costello's mind that should have perhaps struck a chord in the police's mind.

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Now, I agree there is fairness to the police and there is fairness to other parties, but I submit that it is a balance and that a view of the source of her belief and possibly the minimal weight, that is less than the other possible effects, and those are my submissions on that point.

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THE COMMISSIONER: Ms. Cronk?

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MS. CRONK: Yes, Mr. Commissioner, before you determine this matter, there are two submissions that I would like to make before you.

I too am concerned, like Mr. Brown is, as to this matter being gone into by Mr. Hunt. I acknowledge that the perspective from which he



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approaches the matter does not, and he can correct me if I am wrong, relate to the cause of death but rather to the Phase II issue, but I do think it will be helpful to you, sir, to have your memory refreshed as to what this witness' evidence was yesterday on this very matter.

In addition to the other statements that may or may not have been made by this witness to the police on June 17th, her attention during my examination in chief of her was drawn directly to the issue of whether or not she had suspicions at any time of any particular individual or group of individuals, and if I may, I would just like to read the questions and answers that flowed on that.

The question was --

MR. HUNT: Sorry, what was the page, please?

MS. CRONK: I'm sorry, page 1332 from yesterday's transcript. The question initially, sir, started at page 1331 and it was:

"Q. Again, Miss Costello, without naming any specific individual or any specific group of individuals, can you tell me, please, whether as a result of that perception that you did



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have Monday evening, March 23rd, did you, as well, have the suspicion that any particular individual or group of individuals might be involved in the deaths of any of these children?"

A. I am not sure I am understanding. I was concerned from the afternoon of March 23rd when I read the assignment books that that group of individuals were being suspect. Me personally I did not interpret that as, yes, I think those people -- whatever your question was there, sorry."

Q. By that group of individuals, do you mean the individuals whose names were read out that afternoon?"

A. Yes."

And then this question, sir:

"Q. Did you have any basis to consider or form the view they might be under suspicion or might be suspicious other than the events that had taken place at that meeting that afternoon with Sgt. Warr?"



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A. No, I did not."

Q. Did you at any time communicate the view to anyone that a particular individual or individuals were under suspicion for possible involvement in the deaths of these children?"

A. No."

Q. Did you yourself at any time form the view that a particular individual or individuals, again without naming their names, were more suspicious than others in connection with any of these deaths?"

And you quite properly pointed out that it should have been more suspect. The answer was:

"A. No. Except that I had to realize that not everyone on the ward was there at the time that we read to Sgt. Warr from the assignment books."

Q. Again, then, I take it that those groups of individuals you were considering and those particular individuals you considered as a result of having been asked to read out the



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assignment books on those four
particular evenings?"

A. That he suspected them, not that
I did."

Q. You never did?"

A. No..."

and then the answer continues, and then the final
question:

"Q. Did you personally, Miss
Costello, at any time, observe any-
thing or learn anything about the
deaths of any of these children over
this nine month period that led you
to think that a particular individual
or individuals was involved in causing
their deaths?"

A. No."

Sir, in light of that evidence yester-
day, in my submission, the bald question before you
is this: If, as this witness has done, this witness
has testified that she did not herself at any time
have any suspicion concerning a particular individual
or group of individuals and indicates further that
the only basis upon which she had any reason to sus-
pect anyone are the events that did in fact transpire



1
BB12 2 with Sgt. Warr at the meeting on March 23rd, should
3 she now be permitted in this forum to identify any
4 individual or individuals that may have crossed her
5 mind, even accepting that that may relate directly
6 to the Phase II issue? Having said that there was
7 no basis for any opinion or any conclusion or any
8 view in that regard, it seems to me that that is a
9 very troublesome matter and perhaps inappropriate to
be introduced.

10 THE COMMISSIONER: Well, thank you,
11 Ms. Cronk.

12 MR. PERCIVAL: May I be -- because
13 I am certainly going to deal with it.

14 THE COMMISSIONER: Yes, and it may
not be necessary for you at the moment.

15 MR. PERCIVAL: Thank you.

16 THE COMMISSIONER: My problem is
17 this, that you probed that question and you reached
18 a conclusion, you have reached an answer that satis-
19 fies you. Mr. Hunt represents a different interest
20 and he has got to be able to probe it and he has got
21 to be able to probe it just for the one purpose.

22 It is pretty valueless as far as
23 evidence to the cause of death is concerned because
24 all the information she had obviously came from the
25



1
BB13 2 meeting with Sgt. Warr. She said nothing of her own.
3 But having been told or having been led to believe
4 that there was in existence somewhere someone who
5 was poisoning these children, if she had beliefs as
6 to who it might be and did not communicate that, it
7 might be of some value to the police, and I think that
8 Mr. Hunt should be allowed to ask the question.

9 Have I correctly stated the purpose
10 for which you are doing it?

11 MR. HUNT: Yes, sir. I might add,
12 it is not just the police. It is the Crown's, inasmuch
13 as --

14 THE COMMISSIONER: Just a minute.

15 Does anyone else support the position
16 taken by Mr. Brown and Ms. Cronk?

17 MS. FORSTER: I certainly do, sir.

18 THE COMMISSIONER: Anything you want
19 to argue?

20 MS. FORSTER: Not at this stage, sir.
21 I would like to await Mr. Hunt's questions.

22 THE COMMISSIONER: I think I have
23 made it clear the reason why I am permitting it. I
24 am going to ask you, Mr. Hunt, if you get a denial
25 of the statement, then of course it is not of much
use to you, but you have got a right to probe whether



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or not the statement was made, and if it was indeed made, to carry on from there.

MR. HUNT: Thank you.

THE COMMISSIONER: Yes, go ahead.
I take it you are not opposed to that resolution of the problem, Mr. Percival?

MR. PERCIVAL: Well, I have not got started yet.

THE COMMISSIONER: No.

MR. HUNT: Q. All right, Miss Costello, now, I want you to have it firmly in your mind because I know we are talking about two different meetings you had with the police, the first one on March 23, 1981, which is the day after Justin Cook died.

A. Yes.

Q. And the next one was Tuesday, June 17, 1982, which is over a year later.

A. Yes.

Q. And on the second occasion it was after Susan Nelles had been charged, after the preliminary inquiry had been held and after she had been discharged by His Honour Judge Vanek.

A. Yes.

Q. All right. Now, on the 17th



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Costello
cr.ex. (Hunt)

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BB15 2 of June of 1982, you were interviewed by two
3 officers of the Metropolitan Toronto Police; Officer
4 Murray, who was a Constable, and Staff Sgt. Gordon.

5 A. Yes.
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Q. Right. And that interview took place where?

A. In one of the rooms in the Administrator's suite in the Hospital for Sick Children.

Q. At the Hospital?

A. Yes.

Q. And this was during the course of a continuing investigation into the deaths that carried on after the Preliminary Inquiry?

A. The investigation carried on, yes.

Q. Yes. Now, at that meeting in response to a question from the officers as to whether or not there was anything else you wished to tell them about, did you say to the officers with reference to the meeting on March 23rd of 1981 at Liz Radojewski's house, that is the night of the 23rd, did you say to the officers on the 17th of June that I felt there was a murderer in Liz's house and I couldn't look two people in the face because of those feelings that you had? Did you say that to the officers?

A. Yes, I did, with a little bit different context. I was telling them about a conversation that I had with Liz the next morning.



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Q. All right, I don't want to get into the conversation that you had.

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A. Okay.

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Q. Because we will hear from Liz Radojewski. But you did say to the officers that on the night of the 23rd of March of 1981 you were at Liz's house "I felt that there was a murderer in Liz's house and I couldn't look at ..." and then you named two people "... in the face", because of those feelings?

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A. I think so. Now I suspect that, I don't know if I would have been strong enough to say was or if I said could have, but whichever, yes, I said that.

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Q. All right. So, you are agreeing that you said it?

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A. Yes.

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Q. All right. And then in your response to the police to that question you named the two people that on the night of March 23rd because of the feelings you were having, you had difficulty looking them in the face at that meeting?

A. Yes.

Q. And who were those people?

A. Susan Nelles and Phyllis Trayner.



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Q. All right. Now, am I correct that it was on June 17th of 1982 that you first told the police about that feeling that you had?

A. Yes.

Q. All right. Are you aware that the police value the opinions of people that they interview in connection with serious matters like this who are connected or associated in some way with the incident that they are investigating?

A. I assume so.

Q. Pardon?

A. I assume they would be.

Q. All right. And did you know that the police treat very seriously the fact that somebody associated or connected with an incident that they were investigating may have certain suspicions that they can't even put a finger on why they have them?

A. I am more sophisticated now, at that time I was rather innocent and, yes, I guess they take it seriously but now I would explain to them that I didn't have much ground for my silly thinking and conjecturing.

Q. Surely. You know now more about how the police operate and what they consider



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2 important than you did then?

3 A. And I know that I would qualify
4 where my idea was coming from now, whereas, at that
5 time I didn't.

6 Q. But you don't know what effect
7 it might have had on the police on the 23rd of March
8 of 1981 if you had just expressed to them your
9 concerns and thoughts just the way you did in June of
10 '82?

11 A. I never even thought of
12 expressing it to them.

13 Q. I appreciate that. I am not
14 trying to be critical of you, understand, I am just
15 saying that you really don't know what the police
16 would have done with the information of just your own
17 thoughts and feelings and suspicions if you had given
18 it to them on March 23rd of 1981?

19 A. No, I don't know. But I also
20 am not hiding it or consciously doing anything.

21 Q. No, I appreciate that and I am
22 not suggesting that you were consciously trying to
23 hide anything at all.

24 I suggest to you that if this whole
25 thing, as you have said, had to be done over again,
what you might say to them back at that first



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interview back on March 23rd of '81 might be amplified and fully explained now in light of what you have learned subsequently?

A. I am thoroughly confused about what you are talking about.

Q. All right. Well, I am saying if you had to do it over again, knowing now that the police value information however frivolous the person who gives it might consider it to be, if you had it to do over again you would tell the police all your feelings and let them sort it out?

A. When I met them on March 23rd I didn't know anything, or think anything.

Q. I appreciate that, listen to my question though, okay. I am not being critical of you, all right, I am just saying that if you had it all to do over again knowing what you know now, I take it you would feel more confident about just simply expressing your views and your opinions and your concerns and let the police sort it out as to what is important and what isn't?

A. At what date are you asking?

Q. Back on the 23rd of March.

A. On the 23rd of March I didn't have anything to say.



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Q. No, I know, I am not making myself clear.

A. I am sorry.

MS. SYMES: Mr. Hunt, with respect, the problem with your question is that the feelings didn't arise until after the meeting. So, it would have been difficult to discuss them in a meeting that had occurred before the feelings did.

MR. HUNT: Q. Let me suggest then, if you had it all to do over again -- let me put it to you this way. You said the other day in answer to a question by Miss Cronk you said if you were co-operating with the police, you said:

"I co-operated but I didn't offer myself",
right?

A. Yes.

Q. And I take it what you meant by that was you co-operated in the sense you answered the questions, you did so to the best of your ability, you thought you were, but you were quite frightened by the experience and you didn't go out of your way to start volunteering things?

A. No, I don't think I meant that. I think I meant that I was not interviewed until June



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17th, 1982, which was a little unusual in relation to most of the people that I worked with. I wasn't brave enough, nor did I think I had anything to offer that would have caused me to say, interview me.

Q. All right, but you now appreciate that things that people may have to offer that they don't think are really that significant may well be of some assistance to the police?

A. I guess that's why I tried to answer every question they ever asked me.

Q. All right. Let me ask you a final area about your feelings with respect to these deaths.

Given your experience in the care of children over all those years of dealing with other dedicated nurses and dealing with children that if you accept that all or some of these children, and take the 29 suspicious children, were intentionally given an overdose of digoxin.

A. If I accept that they were.

Q. If you accept that with a view to killing them, and if you accept it, there is an if in there.

A. Yes.

Q. And I am not trying to suggest



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that you do, but if you do, then aren't we left with the situation that the person who was doing that was not engaged in any humanitarian act?

A. Definitely, yes.

Q. What we are really dealing with here is somebody who is extremely unbalanced mentally?

A. I am not an expert on that.

Q. Well, you said yesterday that when Susan Nelles was charged you thought that, boy, if she did it she must have been insane or it wasn't the Susan I knew. I am really just suggesting to you that the person who did this, given what you know about care of children and the type of care that nurses give, aren't we really dealing with someone here who is really extremely mentally unbalanced?

A. It looks like it to me, including, I think I stumbled over the last one there and perhaps made myself exclude mercy killing but I would also consider that to be unbalanced.

Q. Well, there really doesn't appear to be any rhyme or reason to the selection of some of the children who died if we accept that they were intentionally killed, does there?

A. No.

Q. Some hadn't even reached the



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point of a catheterization to have the full extent
of their anatomical difficulties diagnosed?

A. No.

Q. And some of them even had
anatomically normal hearts?

A. Yes.

Q. Such as Baby Pacsai and Baby
Hines?

A. Yes.

Q. And the killing, if it is
taken to be that, of Baby Miller and Baby Cook on
the last weekend at a time when it was known that
there was a problem with digoxin and an investigation
going on into Baby Pacsai's death, when people were
actually actively investigating it, it doesn't make
any sense, does it?

A. No, it doesn't.

Q. So, really, mercy killing isn't
really a very viable option here, is it?

A. I can't totally exclude it
because most children with severe cardiac defects
don't have a very normal life, but that is just about
as silly a statement as that one that I am trying to
talk about in the police statement because it is not
based on any knowledge.



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Q. So, you would agree that what we really have here is someone who would appear to be seriously mentally ill and perhaps so mentally ill that it is hard for us as laymen to even grasp the extent of it?

A. If we are going still on that assumption that if someone killed the babies, yes, definitely.

MR. HUNT: Thank you. Those are all the questions I have, sir.

THE COMMISSIONER: Thank you, Mr. Hunt.

Is this order satisfactory?

MR. PERCIVAL: Yes.

THE COMMISSIONER: All right, Mr. Percival.

CROSS-EXAMINATION BY MR. PERCIVAL:

Q. Miss Costello, my name is Percival, I appear on behalf of the Metropolitan Toronto Police. Let's get one thing straight at the beginning, I have never talked to you before?

A. No.

Q. I have never interviewed you?

A. No.

Q. I don't know at least what you



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are going to say until you have said it today, isn't
3 that right?

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A. Unless you want to make
5 assumptions on what I have been saying.

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Q. All right. Well, you certainly
discussed your evidence with Ms. Cronk before you
7 gave evidence last week?

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A. Yes.

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Q. You have discussed your
evidence last week with your Counsel, Ms. Symes?

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A. Yes.

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Q. But you have also discussed
your evidence with other Counsel such as Mr. Brown
13 and somebody from Mr. Strathy's office last week,
14 last Wednesday afternoon, did you not?

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A. Brief bits, yes.

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Q. Wee bits, all right. So, do I
take it I gather they knew what you were going to say
18 before you gave your evidence?

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A. No, I doubt if they did and if
I reversed the tables I wouldn't have known.

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Q. All right. Well, Ms. Costello,
let's go back to the situation that occurred in the
22 month of March, 1981. I gather you were away in
23 Vancouver for a week?

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A. Yes.

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Q. All right. And before you went

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away you knew that there had been somewhat nine months

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of rather unusual activity at the Hospital for Sick

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Children?

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A. Yes.

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Q. Yes, increasing baby deaths?

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A. Yes.

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Q. You also knew that there was at

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least one Coroner's case ongoing because Dr. Fowler

had told you?

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A. Yes.

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Q. So, you knew all of that before

you left?

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A. Yes.

15

Q. You also knew that there was a

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suggestion of a very high digoxin level in Baby

17

Pacsai again before you left?

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A. No.

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Q. I didn't say the level but you

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knew that there was digoxin being utilized as a cause

of death for Baby Pacsai?

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A. No, I didn't. I knew there was

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a high level but to me a high level is 3, not a very

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high level.

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Q. All right. In any event, that was your frame of mind when you went off to Vancouver on or about March 13th or 14th?

A. I was worried.

Q. You were worried, all right. When you came back at 2 o'clock in the afternoon of Sunday, March 22nd - you came by plane I gather?

A. Yes, I don't remember the hour.

Q. And at some point in time that afternoon and evening Liz Radojewski called you?

A. Yes.

Q. Do you remember what time she called you?

A. Evening.

Q. Do you remember whether you called her or she called you?

A. She called me.

Q. How long did you talk that evening?

A. Fifteen minutes or less.

Q. And I gather she said to you, I just want to prepare you for what you are going to find tomorrow?

A. Yes.

Q. Some rather strange things are



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CC 14

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happening?

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A. Yes, she did.

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Q. Yes. And I think you have

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already given evidence that she told you and gave you

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the 25 level for Pacsai that evening, you have said

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that under oath already?

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A. Yes, perhaps I did know that.

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Q. And she also told you that a coroner's investigation was in progress that weekend, and again you have said that already under oath?

A. Yes.

Q. She told you that digoxin had been made a controlled drug?

A. Yes.

Q. She told you that "nursing supervisors" were present and they were doing rather strange things that Sunday?

A. Yes.

Q. Such as monitoring individually the administration of medication to these babies on 4A and 4B?

A. Yes.

Q. She also told you that admissions were apparently cancelled to 4A and 4B, and transfers were in fact not made?

A. Transfers were not made into and transfers were being made out.

Q. Yes. Did she also tell you that quickly in succession on the early Saturday and early on the Sunday morning that there had been two new baby deaths, Cook and Miller, did she tell you that that night?



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A. I don't recall she did, I can't be positive she didn't, but I don't recall that she did, and it definitely wasn't as strongly as you are saying.

Q. Surely somebody must have said, well, what happened, what happened, why did all that happen, she must have told you what she thought the reason was. A. She didn't know what the reason was.

It was my understanding after our conversation that she had tried to find out and she couldn't.

Q. Were you told on that occasion that the drill had been that Sunday that two people were required to sign for digoxin administration?

A. I was told it was a controlled drug and I probably assumed that, but I am not sure that that had started at that time.

Q. Were you told that the keys for the narcotics cupboards had been taken away from some of the nurses?

A. I was told that the "supervisors" were carrying them.

Q. Had they taken the keys away?

A. But if the nurse wanted to give a medication she went with the supervisor with the keys to the ---



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Q. I want to know what you were
told you see, Miss Costello.

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A. I was told that these
"supervisors" were carrying the narcotic keys to
4A and 4B and were accompanying the nurses to
prepare and administer medication.

8

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Q. Were you told that special
tests had been taken on Baby Cook?

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A. I don't think so.

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Q. Were you told that blood tests
were being taken on all other babies for digoxin
levels on Wards 4A and 4B?

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A. No.

Q. Were you told that there were
police investigators in the Hospital?

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A. No, Liz didn't know that.

Q. I don't know what she knew,
I want to know what she told you.

A. No, she did not tell me that,
no one told me that.

Q. Did she tell you that the
nursing team, the Trayner nursing team had been told
not to come in?

A. I think.

Q. Had she told the nursing team



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not to come in?

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A. Yes.

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Q. She had, in fact it was at

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5:30 or 6 o'clock, isn't that right?

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A. Yes.

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Q. That was rather unusual?

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A. Yes.

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Q. That was communicated to you

that evening?

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A. Yes.

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Q. And did you get into this

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milieu of veiled accusations and questions of

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confidence and morale being lessened in that

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telephone discussion with Mrs. Radojewski?

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A. I think the incidents that

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she reported to me were in the light that she herself

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and the staff who were there were finding these

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things very unusual and had no explanation for them,

does that answer.

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Q. Did she feel she was being

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angry, and being threatened, her professional

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competence being threatened, is that what she gave

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the impression to you?

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A. At that time I would have been

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more -- I would think it was her self-confidence

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more than her competence at that moment, yes.

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Q. Do I take it that those matters that were related to you in that telephone call caused you concern?

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A. Yes, they did.

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Q. And I suggest to you, as you and Liz being the two head nurses on 4A and 4B then said, well, we have got to do something about this as nurses, didn't you?

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A. We said, well - that was a small part of what we said, that we need to consult our professional bodies because we are very frightened.

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Q. Right.

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A. And we want to find out if there is any support for us.

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Q. You were worried about your rights as nurses in that Hospital on those wards?

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A. Yes, and thereafter.

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Q. Was it not then at the end of that conversation when you and Liz decided, we have to hold a staff meeting?

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A. No, it was not.

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Q. You are sure of that? Because you answered yesterday, your answer with respect is I think it was only on Monday morning. Now, that



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doesn't connote to me any great deal of certainty.

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A. I know from speaking recently with Mrs. Radojewski that she thinks - that the discussion was begun on Sunday when I was not there, but I did not hear that on the telephone.

6

7

8

Q. Miss Costello, you see the difficulty is you merge your recollection and other people's recollections, I want your recollections and your evidence, please.

9

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11

A. I was not aware of thinking about a meeting on Monday evening on Sunday.

12

13

Q. Then I gather you slept that night and you went into work the next morning?

14

A. Yes.

15

Q. As is your custom, at about 7:00 a.m.?

16

17

A. Yes.

18

Q. And when you went in that morning were all the things that Liz had told you, had they come true?

19

20

A. They were happening.

21

Q. Yes. So if-what she related to you apparently was true, was it not?

22

23

A. Yes.

24

Q. And did you go and speak to

25



DD7

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her as you started in 4B and she started in 4A that morning at 7 o'clock?

3

4

A. She had a day off that day.

5

Q. So she wasn't in?

6

A. No.

7

Q. So you had, the information that you had the night before from her by telephone and you had no one to talk to.

9

A. No.

10

Q. You must have talked to the people on 4B?

11

12

A. As I recall I listened more than I talked.

13

14

Q. Surely you must have been starting to make some enquiries as to what had gone on in the week that you had been away?

15

16

A. There was no one I could enquire from.

17

18

Q. You had five members of your team, you are the head nurse. Wouldn't you want to find out what is going on and how did this all develop?

19

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21

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A. I think I believe Liz telling me the evening before that we don't know why and we are not able to find any answers, so I didn't go

23

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about seeking it from them, I wanted Miss Geiger or
someone else to tell me.

4

Q. Let us just talk about

5

Miss Geiger.

6

A. Yes.

7

Q. Because the evidence you gave

8

is that some time that morning she passed you in the
hall and said:

9

"I don't want to talk to you."

10

And you said:

11

"Well I heard a little bit last night."

12

And she said:

13

"I'm sorry you heard it from her rather

14

than me but I will talk to you later."

15

A. I don't think that is what I

16

said, I think I said - at least what I remember now
happening I met her in the corridor, she said:

17

"I will tell you later in the day

18

what has been happening."

19

I said:

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"Liz told me a little about it last
night."

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She said:

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"I wish she hadn't I prefer that I
would have told you and that you

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D9

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"would have rested last night and not worried about it."

I said:

"I would have preferred to have some warning before I came here."

And we passed on that, that was the end of the conversation.

Q. In any event, so your attempts to obtain any more information that morning were to that extent?

A. Yes.

Q. Did you go and talk to any of the other nurses, the ones that were working for you?

A. We talked but I don't think I sought explanations from them, because I knew they didn't have them, they were seeking them too.

Q. You must have found out that day that Cook had died on that weekend?

A. I probably did, yes.

Q. And you talked to Mary Jean Halpenny that morning?

A. She probably gave a report, I would have to look at the sheets.

Q. Yes. How did you find out if you are right, the next morning, about this special



DD10

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meeting that was going to take place that night at
Radojewski's house?

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A. I didn't particularly find it
out. I think what I had been saying in testimony
here is that all during that day everyone was asking
for support, as head nurse I took it I was one of
the people they were asking but I needed it too.

9

10

11

Q. Miss Costello, I am concerned,
you said to me that you didn't think Liz Radojewski
worked that day, how come she showed up at 2 o'clock
at this meeting with Sergeant Warr?

12

13

A. She was a bit worried about
what was happening on her ward even on her day off.

14

15

Q. Ma'am, surely you didn't phone
her, and you didn't see her up until 2 o'clock?

16

17

A. I think I did, I think she came
in some time around 10:30, approximately.

18

Q. Did she tell you why she came
in?

19

A. Worried.

20

Q. Worried?

21

A. Yes.

22

Q. Had she been asked to come in?

23

A. Not at that hour.

24

Q. Well she wasn't working so that

25



DD11

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was a day off as far as you were aware?

3

A. Yes.

4

Q. And when you talked to her did

5

you talk more about the events that you had talked

6

about the night before?

7

A. I'm not sure, probably.

8

Q. Well then I understand that

9

at some point in time, before 2 o'clock, Anne Evans

10

came to you and said: "There is a meeting with the

11

coroner or the coroner's representative, bring your

12

assignment books and your WINS."

13

A. Yes, she did.

14

Q. Is that all she said?

15

A. Yes.

16

Q. And then do I take it that

17

that is the collective information that you had

18

up until the time you walked into the room and met

19

Sergeant Warr for the first time?

20

A. Yes, it is.

21

Q. When you met with Miss Geiger

22

that morning before you went into the meeting with

23

Sergeant Warr, had she told you about attending two

24

meetings on the Sunday and the Monday morning with

25

the police officers and the coroner?

A. No. I didn't meet with her



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DD12

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except that brief passing in the hall that I have
just described to you.

4

5

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Q. So I take it you didn't
communicate again with her until you walked into
the meeting?

7

A. No.

8

9

Q. And did you, did Liz come to
your ward and sit down with you and then both of
you walked into the room?

10

11

A. We walked in together.

12

Q. Did you discuss anything
before you went in?

13

14

A. I don't have definite
recollections of that, I am sure we were saying,
what is this, we were worried.

15

16

Q. You were worried?

17

A. Yes.

18

19

Q. Did you think that that was
a rather strange request by Anne Evans, bring your
assignment book and your WINS?

20

21

A. Not if I was going to see a
coroner who was investigating a baby death.

22

23

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Q. But as far as you were aware,
at least according to your evidence, the only thing
that you knew about the coroner was involved in was
Pacsai?

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DD13

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A. Yes.

Q. And was Pacsai a 4B or a 4A?

A. 4B.

Q. But you brought the books,
the two books that you had at that time?

A. I think I did.

Q. Well, were you rather surprised
to hear that Liz was going too, she had nothing to
do with 4B?

A. No, I wasn't surprised.

Q. Why would she have anything
to do with Pacsai's death?

A. She didn't necessarily, but
perhaps with respect to some of my answers and
questions from Mr. Hunt that ward was pretty close.

Q. I put it to you, Miss Costello,
you knew before you went into that meeting you were
going into discuss more than just Baby Pacsai?

A. No, I did not.

Q. You were the two head nurses
on 4A and 4B?

A. Yes.

Q. And you knew unusual things
had developed that weekend, you had two new baby
deaths, you knew something else was up, didn't you?



DD14

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A. No, I did not, it may have
been in my subconscious but I was not aware of it.

4

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Q. Now you walked in -- would
this be a convenient time, I want to start that.

6

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THE COMMISSIONER: Yes, we will
take 15 minutes.

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MR. PERCIVAL: Thank you.

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E/BN/ko

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--- Upon resuming

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THE COMMISSIONER: Yes, Mr. Percival.

4

MR. PERCIVAL: Q. Ms. Costello,

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before I get to the meeting with Sergeant Warr at

6

2:00 p.m. that afternoon, Monday afternoon, and I am

7

not sure of your previous response, but you had worked,

8

then, on Ward 4B as Head Nurse from 7 o'clock in the

9

morning through to 2 o'clock, so you had worked there

10

collectively about 7 hours before you attended the

11

meeting with Sergeant Warr?

A. Yes.

12

Q. And you certainly learned at

13

that time, if you had not learned it before, that

14

digoxin was then being given at different times and

15

digoxin blood tests had been ordered on all the

16

surviving babies on Wards 4A and 4B, did you not?

17

A. Your memory is better than mine.

18

I guess that possibly started that morning, but I am

19

not sure of that.

20

Q. Surely that would be somewhat
surprising --

21

A. Yes, it would.

22

Q. -- and if it had been done and

23

was continuing, you would know about it?

24

A. Yes, I would.

25



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EE 2

Q. All right. It is also clear from your evidence given to Ms. Cronk which was that that morning there was no doubt in anybody's mind that there was going to be this staff meeting at Liz Radojewski's house that evening at 7 o'clock?

A. I am not sure I was that concrete in it, but we were saying we have to find some means of getting ourselves together and we were planning it.

Q. Well, Ma'am, you said on a previous occasion under oath that it was that morning and certainly before you went in to see Sergeant Warr that the meeting was planned?

A. Yes, we were planning it during that morning.

Q. All right. Before you went in to see Sergeant Warr, had you ever previously been interviewed by a Coroner's constable?

A. No.

Q. Had you ever been involved in a Coroner's inquest proceedings?

A. No.

Q. So when you were told to go in, you were going to go in and see a Coroner or a Coroner's representative, you really did not know



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what to expect?

3

A. No.

4

Q. All right. And this occurred

5

in the south boardroom of the Hospital for Sick

6

Children?

7

A. Yes.

8

Q. Ms. Geiger, Ms. Evans, Ms.

9

Radojewski and you were the only persons present with
Sergeant Warr?

10

A. Yes.

11

Q. The meeting took place over the

12

course of an hour?

13

A. Approximately.

14

Q. Yes. Sergeant Warr, you have

indicated, told you he was from the Homicide Squad?

15

A. In his introduction, yes.

16

Q. Yes, and he said that he was

17

investigating four baby deaths, did he not?

18

A. Yes.

19

Q. And he told you that they had

all died of high digoxin levels, is that not true?

20

A. Yes.

21

Q. And he also told you that

22

digoxin was found in one of the babies where no digoxin

23

was prescribed?

24

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EE 3



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A. No, I am not aware of him

3

saying that.

4

Q. All right. Well, in particular,

5

did he name the babies?

6

A. He must have. I was aware of

7

the babies that he was concerned with.

8

Q. You were aware of them?

9

A. Yes, then, by whatever he

10

said.

11

Q. But you already knew particularly

12

about Pacsai, you knew about Miller and Cook that had
just happened?

13

A. I knew they had died. I did

14

not know that he was interested in them or that
anyone was until he told me.

15

Q. Well, as soon as they mentioned

16

the name, you knew when they had died, the Saturday

17

morning and the Sunday morning when you had been

18

away, you knew that?

19

A. As soon as he mentioned the

20

name, I think he mentioned the name in context of
reading the assignment books, yes, I knew when they
died.

22

Q. But the new one was Estrella,

23

you had never heard that mentioned or speculated on

24

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EE 4



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or Liz Radojewski had not talked to you about that?

3

A. We had not speculated or talked about any of them.

4

5

Q. But you knew that Pacsai certainly was going to be discussed?

6

7

A. Yes, I did.

8

9

10

Q. All right. Did Sergeant Warr offer any explanation as to why the nursing team had been told to take the shift off the night before, the long nights?

11

A. I do not recall that he did.

12

Q. Did you ask him?

13

A. No.

14

15

16

Q. Did he not, Ms. Costello, explain to either you, Ms. Radojewski, Ms. Geiger and Ms. Evans the new protocol that would be set up in the event of new baby deaths?

17

18

19

A. I am not sure. I know that I was aware of that at some time and it may have been towards the end of that meeting.

20

21

Q. In other words, that you would have to seal the doors and preserve all the IV lines and secure the room where the baby died?

22

23

A. Yes.

24

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Q. You knew that that day?



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A. Yes, I did.

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Q. That was a rather strange
piece of information, was it not?

5

6

A. It was equally strange to
finding out Homicide were involved in our ward.

7

8

Q. Yes, and you said your reaction,
you were frightened?

9

10

A. Yes.
Q. Were you frightened because
someone thought someone was killing the babies --

11

12

A. Yes.

13

Q. -- or were you frightened
because someone may be blaming the nurses for killing
the babies?

14

15

A. I was frightened by everything.
The fact that I was near where a homicide investi-
gation was happening was enough to frighten me.

16

17

Q. Were you angry?

18

19

A. No, I do not recall being
angry.

20

21

Q. Did you get emotional?

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A. No, not that I am aware of.

23

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Q. Did you notice that Liz
Radojewski became emotional?

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A. Not by outward signs. Perhaps



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by the fact neither of us asked anything you could assume that.

Q. Did you see any tears in her eyes?

A. No, I did not.

Q. All right. At the end of this meeting, then, having read out -- and I want to know how that was done, Sergeant Warr asked you about a time period and then you read out the names of the nursing team that were on duty at that time?

A. Yes.

Q. So there would be four or five names read out by you and for three other babies, four or five in each case by Liz Radojewski?

A. Yes.

Q. All right. And no comment by anyone?

A. Certainly we did not make any comment, but I told you some of the things that I think he said during the course of this.

Q. Well, we are going to get to those shortly.

A. All right.

Q. Now, maybe this might be the best time. You said he muttered about patterns?



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A. Yes.

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Q. Now, Ma'am, patterns is something that you already know was happening around that hospital even before that meeting; is that not true?

A. No, it is not.

Q. Well, are you seriously suggesting to me, Ms. Costello, that prior to that event, in the course of nine months, the doctors and nurses were talking about the fact that there was a series of baby deaths that coincidentally always seemed to be happening at night and coincidentally always seemed to be involving the same nursing team; are you suggesting you did not know that or that was not in your mind at the time of that meeting with Sergeant Warr?

A. I did not know that. I have been saying that every day I have been here.

Q. Well, let us see what you said on an earlier occasion under oath about that, Ma'am. Page 1772 in the Preliminary Hearing, Volume 7 --

A. Sir, did you hear me say I did know it or are you assuming I said I did not? I said I did know that and I have been saying it continuously here.



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Q. Well, all right, then I misunderstood you, Ma'am. So then you say you knew there was a pattern?

A. I knew that deaths were occurring on the night shift, predominantly on 4A, predominantly with that team, yes.

Q. But you knew that there was a pattern, the patterns were there, were they not?

A. If you call that a pattern, that is not the pattern that entered my head when I heard Sergeant Warr state the word.

Q. Well, Ma'am, on an earlier occasion, Volume 7 at 1772, Ms. Costello, do you recall these questions and answers, and they are talking at the top of the page, and you are being asked under oath, Ma'am, about these meetings that occurred in the course of the nine month period:

"Q. All right, and when did they start?

A. Probably late summer, early fall.

Q. All right. Did Susan Nelles and Phyllis Trayner and Sui Scott attend those meetings?

A. Some of them.



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"Q. They attended some of the
meetings?

3

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A. Yes.

5

Q. What was discussed at those
meetings, do you recall now?

6

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A. Yes, our awareness that there
was an increasing number of cardiac
arrests, our trying to reason why
this could be.

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Q. All right, and was there some
pattern in these arrests and deaths
that you noted?

11

12

A. Yes.

13

14

Q. What was that?

15

A. They usually occurred at night.

16

17

Q. Yes?

18

A. And they usually occurred when
the same teams were on nights."

19

A. I have been consistent in
saying that, sir.

20

21

Q. Well, Ma'am, what I am getting
at is that when Sergeant Warr muttered something
about patterns, the fact that it popped into your
head is something you had been thinking about for
nine months, had you not, the same thing?

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A. I did not translate it the same way. I think I -- perhaps in anxiety or something, but we were reading names for specific babies out of this assignment book and he spoke of pattern, I did not think of the nine months. I thought he got it out of what we were reading to him from the assignment books and I just made that up; I did not clarify it with him.

Q. But the fact that it so easily popped into your head is that you had been thinking about it literally for nine months?

A. Are you saying, I did not hear it, that I said it or that I thought that it was not said?

Q. Ma'am, you had been thinking about it on this occasion for at least nine months, so that is why it so quickly popped into your head, as you described it in evidence earlier?

A. I do not think it came from me at all.

Q. Well, the fact of the matter he made a comment about patterns --

A. Yes.

Q. -- really had no effect on you because you had already been thinking about it,



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that is my point?

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A. Yes, it did have an effect on

4

me.

5

Q. I see, because a Homicide

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Detective said it; is that right?

7

A. Yes, and because I did not

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relate it to the nine month period that I had been
thinking about at that time.

9

Q. Well, Ma'am, Estrella was back

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in January. That is a minimum of three months.

11

A. Maybe, but I do not think that

12

way and I did not at that time.

13

Q. I see. In any event, at that

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point it was clear to you some new information had
been given to you; is that right?

15

A. The new information --

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Q. Four babies, high digoxin

17

levels?

18

A. Yes.

19

Q. And muttered patterns by a

20

Homicide Detective?

21

A. Yes.

22

Q. Right. And then at the end of

23

the meeting, Sergeant Warr said to you, now, I want
you to keep this information quiet, ladies, it is

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important for the purpose of our investigation; did
he not say that?

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A. Something to that effect.

5

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Q. Yes. He took you into his
confidence by giving you that information, did he
not?

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A. Yes.

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Q. Yes. And by this time, Ma'am,
you had already arranged and planned a meeting of 18
nurses to take place five hours later. Did you not
think it was rather important that you tell Sergeant
Warr, hey, by the way, there are 18 members of --
18 nurses and nursing assistants are going to be
meeting at Liz Radojewski's house five hours from
now, maybe I should tell you; did you not think
that was important?

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A. No, I did not.

Q. I see.

A. If you are relating the last
two questions, I had every intention and I still
have maintained confidence of what he told me. I
did not tell it to anybody.

Q. I am going to get to that
shortly, Ma'am.

A. All right.



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Q. Because your recollection of that particular meeting is somewhat different than others.

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A. All right.

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Q. We will get to that shortly. But in any event, you say that you did not want to hide the fact that there was going to be a meeting five hours later?

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A. I had no intention to hide it. I had no intention to do anything.

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Q. But you did not tell him, did you?

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A. No, I never thought of telling him.

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Q. Well, tell me, Ma'am, that was an important meeting?

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A. It was for us to support ourselves.

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Q. If it was to support yourselves as nurses, why was the meeting not held at the hospital?

A. Well, they were not always. It was easier sometimes to meet elsewhere.

Q. Ma'am, can you think of any more important meeting that you have ever attended



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about your rights as a nurse than this meeting on the night of March 23rd; can you think of any other meeting?

A. Yes. That was not the focus of our meeting.

Q. We are going to get to the focus shortly, but that was a very unusual meeting, very unusual circumstances?

A. It was very unusual circumstances, but the purpose of the meeting to work out a way that we could work well together was not unusual.

Q. I think one of the things that you said earlier in your evidence was the fact that you felt obligated, as Liz Radojewski felt obligated, to go to that meeting trying to justify the actions of the hospital and what they had done?

A. Yes.

Q. Is that not right?

A. Yes.

Q. Now, tell me what steps, if any, did you take to talk to Ms. Geiger, Ms. Evans, anybody in the administration of this hospital to find out what they were thinking before you went to the meeting; please tell me what you did?

A. Nothing.



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Q. Well then, why did you think you would go to that meeting and justify the actions of the hospital if you did not find out what the hospital thought about it all?

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A. I was not trying to find out what the hospital thought about it. My common sense and my professional knowledge would make me know that the hospital should not, could not and did not prevent an investigation happening. The interpretation of our nurses was that it was imposed on them by the hospital.

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Q. Ma'am, you were head nurse?

A. Yes, I was.

14

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Q. All right. You were the second highest category of nurse that went to that meeting. Carol Browne, I gather, was one step higher?

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A. No, she was not.

Q. So you were the top dogs?

A. Yes.

Q. Well, what I am getting at is if you were trying to justify what was going on, why would you not make further enquiries?

A. I can only answer the answer I just gave you, that --

Q. Were you trying to be a buddy to



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these nurses?

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A. Well, what is a buddy? I do

4

not know how to --

5

Q. Well, a friend as opposed to a

6

boss.

7

A. Both. I think that I felt

8

responsible as a boss.

9

Q. Well, you did not pay them,

10

though, Ma'am, did you?

11

A. No.

12

Q. Well, you were in charge of

them?

13

A. Yes.

14

Q. And people were in charge of

you?

15

A. Yes.

16

Q. Why, then, did you feel, if you

17

were going to go there to justify the actions of the

18

hospital, that you could do so without making

19

enquiries as to what the position of the hospital was?

20

A. Well, maybe what is the matter

21

here is that we are exaggerating the fact I did not

22

go there to justify the actions of the hospital. I

23

went to clarify misinterpretation by the staff that

24

the hospital had caused the factors on the wards.

25



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Q. All of the things we just
talked about?

4

A. Yes.

5

6

Q. Which were probably the most
unusual things that you have ever seen in your life
as a nurse?

7

A. Yes.

8

9

Q. But you were there to try to give the
answers; is that not true?

10

A. Yes.

11

12

13

14

Q. Now, you have told this
Commission that you waited around that afternoon to
see if somebody was going to make some enquiries about
opening lockers; those enquiries did not come?

15

A. Yes. I mean, no, they did not
come.

16

17

18

19

Q. Lockers. What significance did
the lockers have? Did you think that had something to
do with someone stealing digoxin and hording it in
the hospital and then applying it to these babies?

20

21

22

A. It was not my business to think
it out. I was only asked to wait to accompany the
police if they wanted to. It was not my idea at all.

23

24

25

Q. What did you think the
significance of lockers were; what did you think?



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What were you told?

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A. I was not told anything.

4

Q. In any event, the call did not
come?

5

A. No, it did not.

6

7

Q. And you left the hospital at
what time, Ma'am?

8

9

A. I cannot tell you exactly. It
was probably 6:00 or so.

10

11

12

Q. Did you communicate -- after the
meeting with Sergeant Warr did you talk to Liz
Radojewski as you were going out the door?

13

14

A. I do not know. As we were going
out the door of where?

15

16

Q. Well, out the door of the
conference room. She was not on shift.

17

18

A. We talked. We were rather in shock
and we were rather silent, but obviously yes, we
did talk.

19

20

21

Q. But you talked about the meeting
and you were going to have to have a meeting and what
you were going to do at the meeting, I gather you
must have talked about that?

22

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A. I think you established with me
that we had been discussing that before this meeting.



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Q. Oh, I know, but you talked
about it after surely? Did you not say, see you,
Liz, 7 o'clock I will be there?

A. Yes, something like that.

Q. Did you say anything more than
that, Ma'am?

A. I cannot remember.

Q. All right. You said that you
went back to your ward and you think some of the
nurses may have said, well, what did the Coroner
say; is that your recollection?

A. Something along that line, yes.

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Q. And then, my goodness, on one occasion you met Sergeant Warr later that afternoon when you had, as you have described, a lab sheet?

A. Yes.

Q. A result --

A. Yes.

Q. -- of over 100 on Baby Cook.

A. Yes.

Q. That really must have thrown you, did it?

A. Yes, it did. I think that I did not know the levels.

Q. No, no, but, ma'am, you thought at that particular point that 3 was a high level.

A. Yes.

Q. 100 was astronomical?

A. Yes, you're right, I did.

Q. All right. And you felt it sufficiently strong, and I commend you for this, by getting it down and getting it off the ward?

A. The main purpose of that was that he had asked me to keep it confidential.

Q. I understand that, I understand that. But you got it down to him but nothing more was said?



FF2

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A. No, nothing more was said.

3

Q. All right. You went to the

4

meeting, and I am going to name some because whether

5

through your evidence or other evidence I want you

6

to tell me whether you can recall these people being

7

present. Would you do that for me?

8

A. Can I look at the notes of

the people that I have recorded to be there?

9

Q. Yes -- I don't want you to

10

look at your notes, I want you to try to remember if

11

you can see them in your mind.--

12

A. All right.

13

Q. -- as to whether they attended.

14

A. All right.

15

Q. Yourself was there?

16

A. Yes, I was.

17

Q. Croswell?

18

A. Yes.

19

Q. Bertha Bell?

20

A. Yes.

21

Q. Karen Power?

22

A. Yes.

23

Q. Meredith Frise?

24

A. Yes.

25

Q. Mary Jean Halpenny?



1
FF3 2 A. Yes.
3 Q. Liz Radojewski?
4 A. Yes.
5 Q. Ray Mandal?
6 A. Yes.
7 Q. Trayner?
8 A. Yes.
9 Q. Nelles?
10 A. Yes.
11 Q. Brownless?
12 A. I can't answer that with
confidence.
13 Q. Scott?
14 A. I do not recall seeing her.
15 Q. Bead?
16 A. Yes.
17 Q. Basciano?
18 A. I don't recall whether she
was.
19 Q. Isn't she on your list? Did
20 you look at it?
21 A. No, I didn't look at it, you
told me not to.
22 Q. Would you look at it now. I
23 think you spelled her name on another occasion.
24
25



FF4

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A. Yes.

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Q. She was there, thank you.

4

MacIntosh?

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A. I don't recall whether she was.

6

Q. Carol Browne, was she there?

7

A. Yes.

8

Q. Pressnail?

9

A. Yes.

10

Q. Mary Ann Valant?

11

A. I don't recall whether she
was.

12

Q. By my calculation there were

13

14 there that at least you confirm?

14

A. All right.

15

Q. All right. When you arrived

16

at seven o'clock, did you come alone?

17

A. Yes, I think I did.

18

Q. All right. Did you know at

19

that time that at least two other nurses, Meredith

20

Frise and Ray Mandal, had been at Mrs. Trayner's

21

house or apartment from two o'clock that afternoon

22

talking about all these events and they left

23

collectively from that house to come to this meeting?

24

A. No, I did not.

25

Q. Did you find it out at the



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meeting?

A. No, I did not.

Q. All right. Is that something new I'm giving you?

A. Yes, it is.

Q. All right. In any event, when you arrived you arrived at about seven and I think your evidence is that you left at about nine-thirty, is that right?

A. Yes.

Q. And this was, to repeat, a most unusual meeting, it wasn't a social get-together to talk about cats and houses, was it?

A. It was not a social get-together, I think I said to you a few minutes ago that it was not. It was unusual because of the grave circumstances but it was not unusual that we would work together to see how we would handle some problem.

Q. All right. There were at least 14 of you there. Was it in one big living room?

A. I think it was kind of two rooms with a little arch.

Q. I gather in two and a half hours there sure weren't many occasions that you can



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remember when the room was silent with 14 women
there?

A. Well, probably not, I don't
know.

Q. All right. Now, ma'am, when
you went in there, you discussed a number of things,
isn't that right?

A. Yes.

Q. You discussed a number of
things?

A. Yes.

Q. And I gather you discussed
the Pacsai inquest and the Coroner, that was common
knowledge?

A. Yes.

Q. Yes. You discussed the fact
that digoxin was a control drug, everybody knew that?

A. Yes.

Q. Right. The narcotics keys
you knew at that point that people were very angry,
very frustrated because these supervisors were coming
around and taking the narcotics keys away?

A. Yes.

Q. Yes. You knew that the
babies were transferred, no new admissions, you



FF7

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knew that, everybody knew that?

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A. Yes, we did.

4

Q. And you also knew at that point that the digoxin levels had been ordered on all babies on those wards?

5

6

A. Yes.

7

8

Q. You knew that one specific nursing team had been taken off shift?

9

A. The previous night you mean?

10

Q. Yes.

11

A. Yes.

12

13

14

Q. And before that meeting was it not decided between you and Liz that Liz was supposed to speak to Dr. Fowler in order to determine the rights of nurses?

15

A. No.

16

Q. You say that never occurred?

17

A. I am certainly not aware of it.

18

Q. All right.

19

A. I don't know why she would seek it from him.

20

21

Q. All right. The reference is from Nurse Trayner, Volume 4, page 844, my lord.

22

23

In any event you told us that you came there for the question of support, to find out

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what was happening and to be mutually supportive,
is that right?

A. To find out what was happening
was unlikely because we didn't know and there was no
one there who was going to tell us.

Q. All those things I have
just described everybody knew was happening?

A. Yes, we already knew.

Q. You sure weren't talking --
are you seriously suggesting nobody talked about them?

A. No, I'm not, but you asked me
did we come to find out what was happening; I can't
answer that positive.

Q. Well, do I take it that the
feeling or the concensus at the meeting was that the
nurses felt that their integrity, their competence
was all being questioned by the actions of the
Hospital?

A. Yes.

Q. Do I take it that the nurses
were collectively upset that their competence had been
undermined and that they were afraid of who and what
was being investigated?

A. Yes.

Q. And do I take it further that



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because the investigation was going on at least Liz Radojewski said, ladies, we have to start making notes because if we don't have proper notes and this investigation continues we have to worry about something? Didn't that occur?

A. I did not hear those words.

Q. All right. Tell me, did the question of malpractice and insurance come up at that meeting?

A. No, it did not.

Q. All right. Certainly RNAO came up, didn't it?

A. Yes, it did.

Q. All right. And was it not agreed at that meeting that Liz Radojewski was going to go down to the RNAO the very next morning?

A. Liz and I went to the RNAO the very next morning.

Q. Well, was it not agreed at that meeting that that is what would happen?

A. I think we had made that decision before that meeting. We had. In fact we had made an appointment with the RNAO for that afternoon and changed it to the morning.

Q. Well, ma'am, you talked about



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the fact that at least one person at that meeting, Susan Nelles, talked about legal representation. Did you hear one other of the other 14 or 18 nurses there talk about getting a lawyer?

A. No.

Q. Or getting legal advice?

A. No, I didn't.

Q. And we talked in terms of Susan Nelles, and I don't want to go over your evidence, but she was very specific as to what she had done with respect to Kevin Pacsai?

A. Yes, she was.

Q. And she sought Mary Jean Halpenny's confirmation that that was true?

A. That the dose was checked, yes.

Q. Yes, checked. But because the dose was checked didn't mean that Mary Jean Halpenny was there when it was administered, is that right?

A. It did not.

Q. Right. In fact, Mary Jean Halpenny did not confirm that she was there when it was administered, isn't that true?

A. No, she wasn't asked it even.

Q. All right. Well, did she volunteer that?



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FF11

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A. No.

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Q. All right. So that the two people, if I can talk about, that seemed to be offering explanations or offering what they had done were Halpenny and Nelles relating to Pacsai?

A. Yes.

Q. Did Mary Jean Halpenny say I am going to get a lawyer too?

A. No, I didn't hear her say that.

Q. All right. Let me deal with the question of: Did you hear anybody say at that meeting, the Trayner team, we have got to go back to work on Wednesday? Did Liz Radojewski say, no, you're not going back?

A. No.

Q. Or did Liz Radojewski say you are going back? They were scheduled to work days on Wednesday?

A. As I recall it, Liz didn't know whether they could go back.

Q. All right. Are you saying that there was no discussion about it?

THE COMMISSIONER: I am sorry to interrupt for a moment. I didn't hear you say that they did say something about going back, did they, did



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FF12

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somebody say something about going back? I'm talking
3 about the Trayner team.

3

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THE WITNESS: I don't remember that
5 discussion. There was discussion that they were not
6 working Sunday night. I don't recall a discussion
7 myself about the future.

5

6

7

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MR. PERCIVAL: Q. Well, ma'am, there
9 were at least by my calculation, of the people that
10 were there, Brownless and Scott you were uncertain
11 about, but there were at least three members of that
12 team who had spent a night off with pay, according
13 to the WIN sheets, did they not say I wonder if I am
14 going back to work?

9

10

11

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A. Perhaps they did. I think
15 you said a while ago there wouldn't be much silence
16 in a roomful of that many people.

15

16

17

Q. No, I want to know whether you
18 remember that being said?

18

19

A. No, I do not.

20

21

Q. Thank you. At that meeting,
22 and I want to talk about it, was there not something
23 said about digoxin and giving a consistent answer to
24 the parents?

22

23

A. I think that that was, how we
25 will explain to the parents that the digoxin is being

24

25



Costello
Cr.ex. (Percival)

FF13

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given at 1:00 a.m.

3

Q. Yes.

4

A. Which we knew was so that the levels could be drawn in the morning but we were not at liberty to talk to the parents about it.

5

6

Q. And the consistent answer was that you had to all collectively have a consistent answer for the parents when they wanted to know why there was a change?

7

8

A. I don't know if that was emphasized but I think the answer we had been asked to give them was that there was a study on digoxin.

9

10

Q. What about the consistent answer that the parents might want to know is why my child is being bloodtested for digoxin when he doesn't get digoxin? Did you talk about a consistent answer that you would have to give to that?

11

12

A. No.

13

Q. Now, were you personally asked by Meredith Frise was there more than one death by digoxin being looked at?

14

15

A. I recall being asked that in a general way.

16

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Q. Well, do you recall being asked that by Meredith Frise?

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FF14

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. A. No.

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Q. If she testifies under oath
to that effect, do you agree?

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A. I can say that I know some-
body asked that.

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Q. Well, was she talking about,
there have been leaks around the Hospital, people
are talking about digoxin and deaths of babies? Did
she say that to you?

10

A. No.

11

12

Q. Well, was your response to
her, there was that possibility but we didn't know?

13

A. Yes.

14

Q. That was your response and
that was Liz' response, wasn't it?

15

A. Yes.

16

17

Q. There was that possibility
but we didn't know?

18

A. Yes.

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Q. All right. Now, ma'am, at
least one person there has sworn under oath, Sui Scott,
Volume 6, page 1364, has said that Liz Radojewski
at that meeting talked about an investigation into
more than one baby and high digoxin levels. Do you
recall Liz Radojewski talking at that meeting to that



FF15

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effect?

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A. She did not in my hearing.

4

Q. All right. Well, do I take
it from that she may have but you didn't hear it?

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A. It's possible but I know that
we planned not to and I think we kept our confidences.

7

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Q. Where were you sitting?

9

MS. SYMES: Mr. Commissioner.

10

THE COMMISSIONER: Yes.

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MS. SYMES: Mr. Percival should
also read on on page 1365 of the cross-examination
as it was continued by Mr. Cooper of Scott in which
the question was asked finally by the Court and
what counsel wants to know is, did she refer to one
or more babies with regard to a high digoxin level
and the answer was, "I can't remember".

THE COMMISSIONER: I thought we were
talking at the moment of --

MR. PERCIVAL: Whether she could,
remember it being talked about. I am being fair, I
am giving her the thing and I know there are
inconsistencies but Sui Scott is not here but I think
in fairness to the witness I just asked her, did she
hear Liz Radojewski talk about it.

THE WITNESS: No, I did not.



FF16

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Q. You did not. Thank you.

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At that meeting were baby deaths
caused by digoxin where no digoxin was prescribed,
was that talked about in your hearing?

5

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A. No, it was not.

6

7

Q. Were the deaths of Baby Cook
and Baby Miller talked about?

8

9

A. I think that there was dis-
cussion not about their deaths but there was
discussion about the specimens that were taken from
Baby Cook and from his intravenous apparatus.

10

11

12

Q. All right. Well then, I
gather at that particular point that was most unusual?

13

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A. Yes, it was.

14

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Q. Yes. Well, on an earlier
occasion at 1761 when you gave evidence under oath
at the preliminary hearing back at February 1, 1982,
line 7:

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"All right. Baby Cook and Baby
Miller had died on the weekend prior
to the meeting, was there any dis-
cussion at the meeting about their
deaths, Baby Cook and Baby Miller?"

"A. I can't answer that for sure
but I know we did not tie it in as



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FF17

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part of the investigation. We did
not know that it was, I can't tell
you for sure whether we discussed
it."

3

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A. Yes.

6

Q. Do you recall saying that?

7

A. I recall saying that.

8

Q. All right.

9

A. I think I probably in a

10

sentence later --

11

Q. Just, ma'am, I am just going

12

to give it to her.

13

MS. CRONK: She is entitled to

14

finish.

15

MR. PERCIVAL: No, no, I am just

16

going to give her the other reference, I'm sorry.

17

Q. Page 1788, did you say this:

18

"Q. And there was an investigation

19

about it. There was also some dis-

20

cussion was there not, and I will

21

ask you about the unusual measures

22

that were taken after Justin Cook's

23

death, the closing of the room and

24

the seizing of all the things that

25

had been there and the taking of



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FF18

blood samples, was there such a
discussion?"

"A. There may have been but it
is so long ago now I can't trust my
memory to answer you."



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/DM/ak

Do I take it that you do now have
such a recollection in your memory?

A. No.

Q. In any event can I take you
this far, that it's probable in view of these two
baby deaths on the Saturday morning and the Sunday
morning, and Monday night, and strange things are
happening at that Hospital that it was probably
discussed?

A. It was probable that the
events around the deaths were discussed, is that
what you are asking me, I don't think the deaths
themselves were.

Q. The circumstances of the
deaths. Why such unusual activity after two more
baby deaths when we have been having so many for
nine months?

A. Yes, it is probable.

Q. Yes, thank you. You talked
about you knew some unusual things had occurred like
Dr. Jedeikin and Baby Cook's death, taking samples,
and the chief of staff Dr. Fowler coming in at
5 o'clock in the morning, you knew that at that time,
didn't you?

A. I found out less than 24 hours



ago that Dr. Fowler came in and at 5 o'clock in the morning.

Q. You never knew that then?

A. No, I didn't, I found it out last night.

Q. I see. Now ma'am, what I am getting at, and I have gone through a number of things, do I take it that really while your memory may be somewhat difficult to recall all those events of that night, but I suggest to you that really the whole scenario was being discussed by you nurses that evening at Liz Radojewski's house; and it wasn't just the Pacsai death and the inquest?

A. Well, how do I answer that when I don't know what you mean by the "whole scenario"?

Q. Well, ma'am, everything that we have talked about, all of those things were discussed. You say you may not have talked about more than one baby death and talking about the Pacsai inquest, but are you asking this Commission to believe that none of those matters were discussed?

A. I think I agree that someone asked if there were other babies and that we answered, we didn't know.

Q. Ma'am, there were 14, minimum,



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nurses and nursing assistants, the most unusual meeting most of you have participated in, and there was sure a lot of speculation I gather?

A. I don't think so.

Q. All right.

A. We were too busy trying to deal with where do we go from here to speculate.

Q. You were trying to give answers based upon limited information I gather?

A. Well, what do you mean by answers? What we were trying to do was plan together how long can we perform competently in our role. What you were talking about at the house - I am sorry.

Q. Did you leave with Liz Radojewski?

A. No, she lived there.

Q. Did she stay there?

A. Yes.

Q. Did you talk to her before you left?

A. No, I didn't, not alone.

Q. Did you meet her the next morning?

A. At some point.

Q. Well, ma'am, you have given



1
2 evidence on Tuesday that you talked to her the next
3 day.

4 A. Yes.

5 Q. I am not going to go into what
6 you talked about.

7 A. Yes, I am sure I did.

8 Q. Did she work the next day and
9 did you work the next day?

10 A. I think she did not.

11 Q. What did you do, did you call
12 her up then?

13 A. She came and we went to the
14 RNAO together about 10 o'clock in the morning.

15 Q. Do I take it then that your
16 impressions then of the meeting were then discussed
17 with her, whatever they were, when you went to the
18 RNAO?

19 A. No, not exactly then. If you
20 are talking about that statement that Mr. Hunt and
21 I were talking about, that was made at some point in --

22 Q. Ma'am, I don't know, I thought
23 I took it down page 1326 and 1329 of yesterday's
24 evidence and maybe I could have it, I thought it
25 was the next day, maybe I am wrong.

A. It was that day you are asking



1
2 me was it in the morning we went to the RNAO.

3 Q. Was it that day?

4 A. I think it was as I remember
5 now.

6 Q. In any event, you talked about
7 your impressions on the 24th, with Mrs. Radojewski?

8 A. Yes.

9 Q. And it was the next day after
10 that, the 25th, that Susan Nelles was arrested?

11 A. Yes.

12 Q. Now let me deal with your
13 next contact with Sergeant Warr and that was on
14 May 4th, was it not, when you found, or you reported
15 it to him 30 cc's were missing out of a codeine
16 bottle in the narcotics room, is that right?

17 A. Perhaps I don't - 30 cc's,
18 no, I don't think we were ever missing that much.

19 Q. All right.

20 A. But we were missing some.

21 Q. You were missing codeine, that
22 was the initial problem?

23 A. Elixir codeine, yes.

24 Q. And about 10 days later I
25 suggest to you that quite apart from codeine being
missing more of it was missing and there was two



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tablets of digoxin missing?

3

A. Yes.

4

Q. That was on or about May 14th,

5

would that date be reasonably accurate?

6

A. Yes.

7

Q. And can I ask this, are the

tablets usually used for infants?

8

A. No.

9

Q. Under one year of age?

10

A. No.

11

Q. I gather that tablets are

12

used for older children on the ward?

13

A. Yes.

14

Q. And I gather two tablets

the dosage is very minor, not likely a fatal dosage
if you take them?

16

A. I don't know. I know that when

17

children come in because they have taken some digoxin

18

pills from their grandmother they are certainly

19

tested to see how serious it was.

20

Q. Ma'am, what I am getting at

21

is, do you give one tablet or two tablets to older
children?

22

A. One or half of one.

23

Q. At that point Miss Trayner is

24

25



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2
3 still working and Susan Nelles is not, is that right?

4 A. Yes.

5 Q. And did you have any --

6 THE COMMISSIONER: I'm sorry,
7 Trayner is still working?

8 THE WITNESS: Trayner is still working,
9 or was she still working then?

10 MR. PERCIVAL: Q. I'm taking about
11 May 14th, 1981?

12 A. Yes, she was.

13 THE COMMISSIONER: I am surprised
14 to hear this because I had heard that the team was
15 relieved of duty.

16 MR. PERCIVAL: Perhaps we have
17 got all WINS and maybe that might help, May 14th.

18 THE COMMISSIONER: I thought
19 March the 22nd they were asked not to return, I
20 don't know when they did return.

21 THE WITNESS: I don't know
22 specifically but it was within the week.

23 THE COMMISSIONER: Within the week
24 they came back?

25 THE WITNESS: Yes, except for Susan
Nelles, yes.

MR. OLAH: Our information is they



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returned the following Wednesday.

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MR. PERCIVAL: Thank you very much.

4

THE COMMISSIONER: Have we had that
in evidence yet?

5

6

MR. OLAH: I don't believe so, the
WIN sheets unfortunately - well, they might indicate
maybe the very last WIN sheet for Ward 4A, indicates
that Mrs. Trayner is on Monday the 30th long day;
Mrs. Scott is on long day; Mrs. Christie is on 12:00
to 8:00; my client is on long days, so that they
certainly were back on the 30th.

7

8

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MR. PERCIVAL: We are talking about
May 14th, six weeks later. Thank you.

13

14

THE COMMISSIONER: Yes, all right.

15

MR. PERCIVAL: Q. Well, ma'am, this
unusual event involving the codeine and the two
tablets were certainly reported to the police?

16

17

A. Yes.

18

Q. And did you have any feelings
at that point whether someone by these acts, if they
were intentional, was trying to throw blame off on
someone and on to someone, or did you have any
feelings at all?

19

20

21

22

A. I think that reporting it to
the police I was hopefully taking it to someone

23

24

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who could assess that better than I could.

3

Q. Did you have any feelings

4

my question is?

5

A. I was worried but I didn't

6

try to translate it into any meaning to me.

7

Q. Do you still take that position?

8

A. I considered it was an abnormal

9

thing to happen but I didn't translate into why.

10

Q. Now, ma'am, I want to deal

11

with the event that occurred after Susan Nelles was -
I am sorry?

12

THE COMMISSIONER: I am just wondering

13

MR. PERCIVAL: I want to deal with

14

this and I will be finished and this is the last
area.

15

THE COMMISSIONER: Oh, yes.

16

MR. PERCIVAL: If I may,

17

Mr. Commissioner.

18

THE COMMISSIONER: Certainly.

19

MR. PERCIVAL: Q. I want to deal

20

with the events of June 17th, 1982, this is after

21

Susan Nelles had been discharged on the preliminary
hearing.

22

A. Yes.

23

Q. And you met that day I suggest

24

25



G10

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with staff Sergeant Max Gordon and Constable John
Murray?

4

A. Yes.

5

Q. And do you see them in this

6

room?

7

A. Yes.

8

Q. Max Gordon has white hair?

9

A. Yes.

10

Q. Miss Cronk was right the other
day was she?

11

A. Well, I was trying to ask her

12

because I didn't know his name at that time.

13

Q. In any event you didn't know

14

Sergeant Gordon before, did you?

15

A. No, I didn't.

16

Q. But you sure knew John Murray,
didn't you?

17

A. Yes, I did.

18

Q. John Murray had been in

19

contact with you on a number of occasions in the

20

initial police investigation had he not?

21

A. Yes.

22

Q. And he had used you for the

23

purposes of arranging interviews with other nurses,
is that right?

24

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G11

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A. Yes.

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Q. So seeing Constable Murray was
not a surprise to you?

5

A. What do you mean by that?

6

7

Q. The fact that you asked to
come to another interview.

8

A. That was the first interview
I was asked to come to.

9

10

11

Q. In any event you were not
frightened because Constable Murray was there, he
was known to you.

12

13

A. He doesn't look like an ogre
but I am frightened of him because of his position.

14

15

16

Q. Well, they didn't interview -
they asked if you wanted to be interviewed, didn't
they?

17

A. No, that I am aware of, or if
they did I wasn't aware that I had a choice.

18

19

Q. Ma'am, they interviewed you
in the Hospital for Sick Children at 10:30 that day?

20

A. Yes.

21

Q. In the administration office?

22

A. Yes, they did.

23

Q. By the chapel, is that right?

24

A. Yes.

25



G12

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Q. And did they explain to you that they were doing a re-investigation of these matters?

5

A. Yes, they did.

6

7

Q. And did they tell you that they were trying to develop new information?

8

A. I can't recall whether they did.

9

10

11

12

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14

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Q. Now, Sergeant Gordon and Constable Murray say that you, after they went through a number of preliminary matters, you acknowledged, or you said that someone was deliberating killing the babies and you hoped that the officers would be successful in their investigation for everyone concerned?

16

17

A. I agree to the second part. I don't ever recall saying or thinking that in my opinion someone --

18

19

20

21

Q. What are you looking at, ma'am?

A. The notes.

Q. Would you put those away for a moment please.

22

23

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A. All right.

Q. They are not your notes, are they?



G13

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A. Given to me.

4

Q. Those are the officers' notes, please don't look at them.

5

A. All right.

6

Q. Thank you. Now, ma'am, so you say that you were hoping that they would be successful?

8

9

A. Yes.

10

Q. But you deny that you said to them someone was deliberating killing babies?

11

A. Yes, I do.

12

13

Q. Do you have any - can you speculate or can you assist me as to why those officers, if they report back, would say something so untruthful?

14

15

16

A. I didn't see at the time that they were saying something untruthful. I can speculate that maybe what you said to me, they explained to me the investigation they were doing. Maybe they said: "We are investigating deliberate deaths." And I wished them well on it, I don't know.

17

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Q. Ma'am, would your answer have been the same if you had not been in the witness box and you had your own counsel for the last six or eight months?

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A. Yes, it would, I haven't
discussed this.

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Q. You haven't discussed this?

5

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A. I have discussed these notes,
I haven't prepared any answers to this question or
anything.

7

8

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Q. And then they went on and
discussed the various entries in the ward book and
your own personal notes and asking you to explain
some things, you remember that?

11

A. Yes, I do.

12

13

Q. And the interview went on for
about two and a half hours, didn't it?

14

A. Yes, more maybe.

15

16

Q. And when they were finished
they asked you, do you have anything else to say, do
you remember that being said to you?

17

A. Yes.

18

Q. By Constable Murray?

19

20

A. Yes, I can't remember the
exact words.

21

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Q. And they say that you volunteered:
"That evening at Liz' house I felt
there was a murderer and at the
meeting I couldn't look at those two
nurses."



G15

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A. Yes, as I said to Mr. Hunt --

Q. No, ma'am, first of all they
say that?

A. Yes.

Q. Do you agree that you told
them that?

A. I do. The only thing is I
don't know whether I said there was or there could
have been, to me it would have been more likely I
would have said could have been.

Q. Now you told Miss Cronk in
some considerable detail that you, after read out
the names of the assignment book, four or five nurses,
nobody said anything; Sergeant Warr said nothing about
who was more suspect than others?

A. No.



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MR. PERCIVAL: Q. Right? Well, why would you name two out of the four or five if it was solely based upon what Sgt. Warr had told you? Why wouldn't you name all five of them; "I can't look all five of them in the eye".

A. I didn't see all five of them there.

Q. Well, ma'am, if Sui Scott said she was there you can't deny it; if Janet Brownless said she was there you can't deny it.

A. I don't deny what they say but I don't recall them being there and when I made that statement to Liz Radojewski I did not recall --

Q. "Ma'am, what I am getting at is --

MS. SYMES: Let her finish her answer.

MR. PERCIVAL: Q. Ma'am, you are being very specific about the fact that you named two of them, Susan Nelles and Trayner, those are the two that you told these officers --

A. Yes.

Q. -- when they said is there anything else you wish to say. Those are the two that you selected. Why didn't you select all five



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of them?

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A. I was not making this statement to tell the police that; I was repeating to them a conversation that I had with Liz Radojewski, and at that conversation that is what I said to her; that is the difficulty that I have looking at them because they were in a position in that room about where Miss Cronk and Mr. Lamek are to me, but it wasn't a room like this with everybody in front of me; they were all around.

Q. Then, ma'am, you are recounting a conversation that you had on March 24th, the day before Susan Nelles got arrested?

A. Yes.

Q. Now when you were asked again, do you have anything more to say, were you also asked by the officers if any of the nurses were holding back information from the police investigation?

A. I don't know whether I was or not.

Q. Well, did you reply to them the same two nurses, Nelles and Trayner?

A. No, I did not.

Q. And again you have the notes there.



Costello
cr.ex. (Percival)

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GG3.3 2

A. It is in the notes.

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Q. They say that you did. Was there any reason why they would put that down? Can you think of any reason?

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A. I can't be in their mind, but in my mind I could not have said that because I have never thought of that, I have never had any evidence or any data that would help me to think that.

9

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Q. Well, ma'am, if they are believed in these proceedings, and you felt on June 17th that two nurses had held back information to the police, you surely must have lacked confidence in those two nurses, back on June 17th of 1982.

14

15

16

A. I did not.

17

18

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Q. You would think that that would be pretty bad, would you not, if you felt two nurses had held back information from the police?

20

21

22

A. I didn't feel that, I never felt that.

23

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Q. Well, if you did.

A. I agree if I did it would be very serious and I would not have waited that long to tell somebody. I had no evidence ever to say that.

Q. Ma'am, what I want to know is if they are believed about what you said, and if



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GG3.4 2 you ask us to believe that you have the greatest
3 confidence in the competence of these two nurses,
4 Nelles and Trayner, what happened in the last 18
5 months to give you the confidence?

6 A. I have the same confidence
7 I had at that time.

8 Q. Have you had anything to
9 do with either one of those in the last 18 months?

10 A. Very minimal. I did not
11 at that time have no confidence in them; I did not
12 at that time think they were withholding information.

13 Q. Well, ma'am, if the police
14 officers are believed and you said that --

15 A. I have no control over what
16 people believe.

17 Q. I see. Or what you believe?

18 A. Yes, I have control over what
19 I believe.

20 MR. PERCIVAL: Thank you. No
21 further questions.

22 THE COMMISSIONER: Thank you, Mr.
23 Percival. I don't know if there is merit in taking
24 a poll. Are we likely to finish tomorrow? Has anyone
25 anything to say?

MR. ROLAND: I guess the next one in



G3.5

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line is Mr. Ortved.

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THE COMMISSIONER: Yes, I saw him earlier.

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MR. ROLAND: Mr. Ortved and myself, and I don't think he has any questions and I may be about three to five minutes.

7

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MS. SOLOMON: I don't expect to be any longer than about fifteen minutes.

9

10

MR. OLAH: I expect to be half an hour.

11

12

MR. LABOW: I expect half an hour at the outside.

13

MR. TOBIAS: I as well will be half an hour, Mr. Commissioner.

14

15

MR. SHANAHAN: About fifteen minutes.

16

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THE COMMISSIONER: Well, it may be a close thing. I am prepared, as I say, I can soften some of the sticks with carrots that we might come in early tomorrow to see if we can't complete it.

19

20

Does that appeal to people or not?
Does it appeal to you at 9:30 tomorrow?

21

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THE WITNESS: Yes.
MS. CRONK: Sir, unless I have miscounted, and I recognize we haven't got Ms. Symes on how long she will be in re-examination, we are only



G3.6 1
2 talking about the morning tomorrow, excluding Ms.
3 Symes' re-examination.

4 THE COMMISSIONER: What do you think,
5 Ms. Symes?

6 MS. SYMES: Mr. Commissioner, so
7 far I will only be five minutes.

8 MR. SHANAHAN: Mr. Commissioner, I
9 wonder if I may be called out of order tomorrow and
10 if in fact I am not reached after Mr. Tobias is
11 called I will forego my right to examine at that
12 time.

13 THE COMMISSIONER: I take it you
14 have the usual engagement, have you?

15 MR. SHANAHAN: Yes.

16 THE COMMISSIONER: Well, you are
17 suggesting we don't start at 9:30 then?

18 MS. CRONK: It doesn't appear we
19 are inclined to start at 9:30.

20 THE COMMISSIONER: All right. We
21 will start at ten then. I am persuaded by Ms. Cronk
22 that there is no reason to change our habits.

23 MS. SYMES: Mr. Commissioner, before
24 we break can I just reaffirm that Bertha Bell then
25 will not be expected to be present tomorrow afternoon?

THE COMMISSIONER: No. I understand



G3.7 1
2 she is on long night duty tonight and it would be
3 most -- the Charter or Rights would have something
4 to say about that sort of treatment.

5 MS. SYMES: She will appreciate
6 that, sir.

7 --- whereupon the hearing was adjourned at 4:35 p.m.
8 until Thursday, the 2nd day of February 1984,
9 at 10:00 a.m.

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